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THESIS

**LUSTRATION: TRANSITIONAL JUSTICE IN POLAND
AND ITS CONTINUOUS STRUGGLE TO MAKE MEANS
WITH THE PAST**

by

Alexandra Kathryn Nielsen

June 2008

Thesis Advisor:
Thesis Co-Advisor:

Donald Abenheim
Mikhail Tsympkin

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CONTINUOUS STRUGGLE TO MAKE MEANS WITH THE PAST**

Alexandra K. Nielsen
Major, United States Marine Corps
B.A., University of Arizona, 1996

Submitted in partial fulfillment of the
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June 2008**

Author: Alexandra Kathryn Nielsen

Approved by: Professor Donald Abenheim
Thesis Advisor

Professor Mikhail Tsypkin
Co-Advisor

Professor Harold A. Trinkunas
Chairman, Department of National Security Studies

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ABSTRACT

Poland was the first East Central European nation to transfer from totalitarian rule to democracy. Although resistance to the communist regime existed since 1956, it was not until 1980 that this transition began to develop. Negotiations between Poland's communist regime and its opposition allowed for the first free elections in East Central Europe in the summer of 1989 and within months, regimes throughout the region began to fall. Poland's neighbors, Germany and the Czech Republic, immediately adopted policies concerning the crimes of the previous regime upon their transfer but Poland did not. Poland's failure to implement legislation concerning transitional justice led to almost a decade of political turmoil and infighting. In order for an emerging democracy to become effective, it must separate itself from the ideals of the old regime and those individuals and policies that enforced its repression.

This thesis will examine the post 1989 governments of Poland, Czechoslovakia/Czech Republic, and East Germany including how each of these nations held the criminal functionaries of the previous regime accountable, while the transition to a democratic state unfolded in turn in the 1990s. It will provide insight as to why Poland, after legislation in 1996, is still struggling with implementation of transitional justice eighteen years after transition.

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I. INTRODUCTION

Those who cannot remember the past are condemned to repeat it.

— George Santayana, *The Life of Reason*, Volume 1, 1905

This study addresses the totalitarian past of central Europe and its impact on present political culture as the search for justice continues. The Palace of Culture and Science in Warsaw, Poland represents the daily struggle that the nations of central Europe, particularly Poland, face when trying to answer the questions of their past. Formerly known as Joseph Stalin Palace of Culture and Science, this monstrosity of a skyscraper was a gift to the people of Poland from the Soviet Union in 1952. It is a replica of the Palace of Soviets and the Moscow State University in Moscow built under Stalin's reign. As the highest structure in the city it keeps a watchful eye over Warsaw, just as the secret police did over its citizens. The skyline of Warsaw, dominated by this building, offers a daily reminder of life under the vanished Communist Regime and its oppression of the Polish people. Almost all other structures and monuments of the former regime, like the Palast der Republik in Berlin, have been destroyed. Currently there are discussions as to whether this building should be torn down, or remain as a reminder of this horrific past. Much like the controversy of the Palace of Culture and Science, the question today is whether Poland should continue to struggle to make amends with its communist past or let its past rest and move forward.

Many nations throughout Europe and Asia were subjugated to the authority of the Soviet Union and its satellite communist regimes from as early as 1921, and again in 1944, until the fall of communism in 1989. The citizens of these nations endured years of terror and oppression from the communist government and its secret service apparatus. Thousands were imprisoned, tortured, executed, and forced to betray their family and friends. Fortunately, this reign of terror began to fall apart in 1989 as a result of revolution and negotiated turnovers throughout central Europe. These nations adopted various means of transitional justice in order to deal with the communist leaders, secret

police, and their collaborators, they implemented sound legislation and then continued to progress past the issue of serving justice. Such was not the case in Poland for the reasons examined below.

In order to provide some sort of transitional justice in Poland, the government eventually adopted a system of lustration, “the process of screening groups of people for previous acts of collaboration under the communist regime (especially acts of collaboration with the secret police) and in turn disqualifying members of these groups from holding high-level positions in the public sector.”¹

Czechoslovakia was the first of the East Central European states to pass a law concerning the conduct of the Communist Party, its Secret Service, and those that assisted these groups.² In 1991 Lustration Act 451 was passed and has been in effect since. In accordance with the (now) Czech law, an individual assuming a position in public office is required beforehand to submit a request to the Ministry of Interior for their name to be vetted through the Secret Police files of the former regime.³ A similar approach was adopted in Poland, but due to a negotiated transfer of the government with the communists, it wasn’t until 1997 that Poland’s lustration law was passed.⁴ The first freely elected government in 1989 decided that a “Thick Line” would be drawn between the crimes of the previous regime and themselves. The past should be the past and Poland was to move forward.

Prior to the law in 1997, lustration and the information in the secret police files, was used unofficially as a tool for opposing political parties and personal retribution. This continued even after the law was passed. The legislation initiating lustration had a ten year expiration date and in 2006 a new law was constructed by the existing

¹ Hilary Appel, “Anti-Communist Justice and Founding the Post-Communist Order: Lustration and Restitution in Central Europe,” *East European Politics and Societies*, 19, 3, 2005, 379-405.

² Mark S. Ellis, “Purging the past: The Current State of Lustration Laws in the Former Communist Bloc.”

³ Petra Kropackova, Personnel Security and Lustration Section, Ministry of the Interior Czech Republic, Interview by author, April 17, 2008, Prague, Czech Republic..

⁴ Andrew Rigby, *Justice and Reconciliation: After the Violence*, London: Lynne Rienner Publications, 2001, 117-118.

government under President Lech Kaczynski of the Law and Justice party (PiS). The proposed law was expanded to screen not only politicians and government officials for collaboration with the previous regime but encompassed the members of private organizations, the media, and the academic community. The wide spread coverage of this law almost eighteen years after the fall of communism leads to the question, did Poland's initial policy of the "Thick Line" delay the mental and political development of the nation even while it accelerated the economy?

New legislation concerning the lustration process in Poland was introduced in 2007. The law requires all citizens in positions of public authority to be screened for former collaboration with the communist secret police during the period from 1944 to 1989. The new legislation covered a much broader range of individuals than the previous law who were now subject to the vetting process. The release of the proposed legislation caused uproar in society as many protested the new requirements for journalists, academics, and business executives to be screened. The new legislation would cover twenty-eight times the number of Polish citizens as with the previous law. It also sparked a debate questioning whether this legislation was necessary seventeen years after the fall of communism and if it was time to move forward past the old ghosts of the past.

This thesis will address the questions as to why, after almost twenty years, the Polish Government and its people are still searching for justice from collaborators of the former Communist Regime and how long will history be used as a weapon in Polish society? Neighboring countries of both Germany and the Czech Republic dealt with their past swiftly allowing for the development of politically and economically strong new nations. What in their history or culture allowed these nations to move forward while Poland continued to struggle with the implementation of transitional justice? The cases of Germany and the Czech Republic will be reviewed and compared with Poland to provide a better understanding of these questions.

This thesis will demonstrate that the initial government of Poland after the fall of the communist regime skipped an essential step in the process towards a democratic nation. Like Spain, Poland initially decided to take the "amnesia" approach to

transitional justice.⁵ This thesis will also show that once legislation was finally introduced, it was weak and failed to provide justice to the victims of the previous regime. Moreover, it did not prevent those perceived as criminals of the Polish nation from employment in public positions. It is the preliminary conclusion of this thesis that Poland's failure to provide some sort of break with the past tied its hands for the last eighteen years and allowed for instability throughout the government. Even with the new legislation introduced in 2007, questions will remain unanswered until the contents of all files are revealed or the victims and criminals concerned have retired or passed away.

In order for an emerging democracy to become effective, it must separate itself from the ideals of the old regime and those individuals and policies that enforced its repression. Poland's failure to implement legislation concerning transitional justice led to almost a decade of political turmoil and infighting. Even after legislation was passed, the information locked in the secret police files continued to be used to control members of the government and assist opposition parties in their quest for political dominance. As nations throughout the world shed their totalitarian past, they too will have to decide how their new government will confront these potential criminals and establish a functioning system with or without officials from the previous regime. Researching Poland's path to democracy should provide guidance for transitioning governments in the future.

A. METHODOLOGY

This thesis employs the case study method. A review of the post 1989 governments of Poland, Czechoslovakia/Czech Republic, and East Germany will provide three different solutions on how each of these nations held the criminal functionaries of the previous regime accountable, while the transition to a democratic state unfolded in turn in the 1990s. To understand the decisions made in the present it is essential understand the past. Although each of these nations were subject to the authority of Moscow and suffered from the oppression of their own secret police, particular events in each of their past played a major role in their future and transition into democracy. The second chapter of this thesis will present an overview of the events occurring between

⁵ Rigby, 100.

1944 and 1989 that shaped the actions taken by these governments upon the fall of communism. The system and oppression of the secret police will also be examined to provide an understanding as to the need for legislation concerning individuals that cooperated with them.

The third chapter of this thesis will discuss the timing and process of transitional justice in East Germany as it united with West Germany and lustration in Czechoslovakia as it broke away to the Czech and Slovak Republics. It will focus on events occurring from 1989 until 1991, the initial period of the establishment of democracy, and the trials and tribulations leading to their policies of transitional justice today. The fourth chapter of this thesis will also review the events surrounding the regime turnover in Poland from 1989, but will pay particular attention to developments in lustration in Poland leading to the initial lustration law in 1997. It will assess the lustration law developed in 1997 and its aftermath until its expiration in 2007. Finally, the new lustration law, proposed in 2006, will be examined while discussing the public's reaction and the government's response to the new policies. In conclusion, this research will provide insight as to why Poland today is still persecuting its people for previous ties with the former regime while the other nations are no longer struggling with how they will make amends with their past.

B. LITERATURE REVIEW

There is a vast amount of literature concerning the transition of the governments of East Central Europe after the fall of communism. The majority of this literature focuses on the three former Warsaw Pact nations who were initially accepted into NATO, including the reunification of Germany. The almost simultaneous destruction of the communist regimes in East Central Europe allowed for a diverse study of transitioning nations and their implementation of transitional justice. Although many theories have developed as to the timing and approach of such implementation, the literature focuses on three main periods since 1989.

The first period, and the majority of literature, focuses on the first years of transition in these emerging democracies and the policies concerning their past

implemented by the newly formed nations. Marjorie Castle takes an in-depth look at the events surrounding the 1989 Round Table agreements in Poland. The surprising outcome led to democracy in Poland and triggered revolutionary events throughout East Central Europe.⁶ Most of the authors in this group are in agreement that some sort of action must be taken against the previous regime in order for the new government to function efficiently.⁷ Ilan Berman argues that the structures of the old regime, particularly the secret police, must be “uprooted and neutralized” and is a “crucial step in dismantling the legacy of the old regime.”⁸ The majority of this literature concludes prior to Poland’s implementation of legislation in 1997.

The next group of literature seemed to be motivated by the controversy surrounding Poland’s lustration law enacted in 1997. There were many individuals in Poland who believed that amnesty was the best option, including former dissidents, while others were discouraged by the success of the old nomenklatura.⁹ Lavinia Stan addresses these issues and analyzes the application of the law, claiming that “Polish lustration was no lustration at all.”¹⁰ Other authors perceived this law as a step in the right direction as it provided truth to a society that was eager to deal with their past.¹¹

For those Americans who had given little thought to such things until they landed in their nation’s purview in the spring of 2003, the protracted course of the war in Iraq generated new interest on the subject of transitional justice in East Central Europe. In

⁶ Marjorie Castle. *Triggering Communism's Collapse*. Lanham: Rowman & Littlefield, 2003.

⁷ Rigby, Tina Rosenberg, *The Haunted Land*. New York: Random House, Inc., 1995; Joseph Rothschild, *Return to Diversity: A Political History of East Central Europe since World War II*. Oxford: Oxford University Press, 1993.; Luc Huyse, "Justice after Transition: On the Choices Successor Elites Make in Dealing with the Past." *Law & Social Inquiry* 20, no. 1 (Winter 1995): 51-78.; Maria Los, "Lustration and Truth Claims: Unfinished Revolutions in Central Europe." *Law & Social Inquiry* 20, no. 1 (Winter 1995): 117-161.; Noel Calhoun, *Dilemmas of Justice in Eastern Europe's Democratic Transitions*. New York: Palgrave Macmillan, 2004.

⁸ Ilan Berman, and J. Michael Waller, eds. *Dismantling Tyranny. Transitioning Beyond Totalitarian Regimes*. Lanham: Rowman & Littlefield, 2006, 154.

⁹ Aleks Szczerbiak. “Dealing with the Communist Past or the Politics of the Present? Lustration in Post-Communist Poland.” *Europe-Asia Studies*, 54, no. 4 (2002): 553-572.

¹⁰ Lavinia Stan, “The Politics of Memory in Poland: Lustration, File Access and Court Proceedings,” *Studies in Post-Communism*, Centre for Post Communist Studies, St. Francis Xavier University, 10, 2006.

¹¹ Appel; Natalia Letki, "Lustration and Democratisation in East-Central Europe." *Europe-Asia Studies* 54, no. 4 (June 2002): 529-552.;

order to provide an understanding of the effects of de-Baathification conducted by the Coalition Provisional Authority in Iraq and develop a course of action for transitional justice, scholars have referred back to the transitioning democracies of 1989. Roman David addresses the four types of lustration systems developed in post-1989 events (inclusive, reconciliatory, exclusive, and mixed), their success or failure, and the application of these systems in post-conflict intervention.¹² Jon Elster also stresses the importance of understanding transitional justice of post 1989 East Central Europe in order to avoid the mistakes of the past when addressing issues of retribution in the future. As Elster and others imply, Iraq is not the “last surviving dictatorship.”¹³ This literature provides a thorough critique on the systems implemented and their outcomes fourteen to sixteen years later.

Finally, the most recent literature to surface in the past few months discusses Poland’s newly implemented lustration law. There is very little literature in English concerning this new law, but two reoccurring questions immerge. Is this new law a step backwards for Poland in its democratic process? And is this law even necessary almost two decades post 1989? Marek Safjan evaluates the new legislation and agrees that this legislation is necessary, but its implementation should have been addressed at a much earlier period in Poland’s history.¹⁴ Some authors view the new law as a distraction to democracy rather than a hindrance, and do not believe that democracy is disappearing. People should be more concerned with the democratic process itself rather than promoting the destruction of the opposing political elites.¹⁵

¹² Roman David, “From Prague to Baghdad: Lustration Systems and their Political Effects.” *Government and Opposition* 41, 3 (2006) 347-372.

¹³ Jon Elster, ed. *Retribution and Reparation in the Transition to Democracy*. Cambridge: Cambridge University Press, 2006.; Alexander Mayer-Rieckh and Pablo de Greiff, eds. *Justice as Prevention*. New York: Social Science Research Council, 2007.

¹⁴ Marek Safjan, “Transitional Justice: The Polish Example, the Case of Lustration” *European Journal of Legal Studies*, 2007, 1, 2.

¹⁵ Krzysztof Jasiewicz, “Is East Europe Backsliding? The Political-party Landscape,” *Journal of Democracy*, 18, 4, 2007; Jacques Rupnik, “Is East Europe Backsliding? From Democracy Fatigue to Populist Backlash,” *Journal of Democracy*, 18, 4, 2007; Ivan Krastev, “Is East Europe Backsliding? The Strange Death of the Liberal Consensus,” *Journal of Democracy*, 18, 4, 2007.

In summary, there is an abundant amount of literature concerning the transition of the East Central European states post communism in 1989. While a majority of it focuses on the initial years of transition, it does provide a sufficient analysis of these events and their outcomes in the recent past. However, due to the recent timing of legislation in Poland concerning their implementation of a new and broader lustration law, there is insufficient literature addressing the requirement for such legislation.

II. BACKGROUND

Most of East Central Europe became newly independent states in 1918 as a result of the Paris suburb treaties: Versailles, Petit Trianon, and Serves. The multi national empires of East Central Europe were finally dissolved, but the new states that emerged were weak. “The half-century-long attempt before World War I to adopt Western institutions and to imitate Western development had been only partially successful even in the best cases, and in most cases had failed entirely.”¹⁶ Due to the absolutist society that lasted until World War I, East Central Europe under the Habsburgs was unable to progress economically and socially. Post war experiences in the new nation-states did not provide for much improvement. Democracy or not, within twenty years these nations quickly found themselves occupied once again by German speaking peoples. This time it was the Nazis. In 1938-1939, the Czechs and the Poles lost their independence. What is now the Czech Republic became the German Protektorat Boehmen-Maehren and Poland was split in two between Germany and the Soviet Union.

When the Red Army liberated East Central Europe, the reward for resistance against the Nazis was threefold. It began with the almost complete destruction of their cities, as was the case of Warsaw, which had been badly damaged in 1939 and again in 1943. Then came the oppression of the public. Finally, they were blessed with another round of cleaning house, sweeping away intellectuals and other potential troublemakers directed by the Soviet occupiers. Thousands were deported to the East. Even the local communists were penalized for assisting with the resistance against the Nazis. In the city of Prague, the local communist party was found guilty for beginning the liberation of the city on their own in the spring of 1945 and for not waiting for the entry of Soviet troops. These thriving and individual societies were tossed back into the dark ages as their property was procured and the collective lifestyle was forced upon them from Moscow. Moscow dug its claws into the societies and governments of East Central Europe,

¹⁶ Ivan T Berend, *Decades of Crisis: Central and Eastern Europe before World War II*, Berkeley, CA: University of California University Press, 1998, xxii.

installing puppet regimes that kneeled in submission. The peoples of East Central Europe had only shaken off their Nazi tormentors to then endure Soviet puppet rule for four plus further decades.

*After the second World War, Europe was cut in half by the Iron Curtain, which was not only enslaved the people of Eastern Europe, but also erased the history of these people from the overall history of the Continent. Europe had just rid itself of the plague of Nazism, and it was quite understandable that after the bloodbath of the war, few people had the strength to look bitter truth in the eyes, they could not deal with the fact that the terror was continuing in half of Europe, that behind the Iron Curtain the Soviet regime continued to commit genocide against the peoples of Eastern Europe and, indeed, against its own people. For fifty years the history of Europe was written without our participation.*¹⁷

— Sandra Kalniete, Latvian Minister of Foreign Affairs, 2004

Life under communism throughout East Central Europe was very difficult in the mental and physical dimensions. In interviews conducted with citizens of the former regime they explain the hardships they once faced. Aneta was just twelve years old when the Communist Regime fell. She remembers when there was nothing on the shelves of the local market. “We had orange juice only for Christmas; it was sent to us from our relatives in Western Germany.”¹⁸ Helena recalls that a new pair of shoes would cost a months salary. “When you finally had enough money and the shoes arrived in the store, you would rush to wait in line, maybe you would get them or maybe they would run out before you got to the front of the line.” When shop owners were able to acquire goods, they were not sold in the shop, but used to trade for such other inaccessible items as a good piece of meat.¹⁹ For members of the political elite, there were hard currency special shops where they were able to purchase goods not available to the common citizen. But these are trifling issues when it came to the generalized effects on free will and civil society of the Soviet system. Children were refused medical treatments and medicines,

¹⁷ Krzysztof Persak and Lukasz Kaminski, *A Handbook of the Communist Security Apparatus in East Central Europe 1944-1989* Institute of National Remembrance, Warsaw, 2005, 10.

¹⁸ Aneta Mach, Ministry of the Interior Poland, Interview by author, April 14, 2008, Warsaw, Poland.

¹⁹ Helena Markusova, US Embassy Prague and Czech citizen, Interview by author, April 18, 2008, Prague, Czech Republic.

simple when compared to Western standards, if their parents did not belong to the socialist political elite or refused to collaborate. There were different schools and hospitals for members of the Communist Party and the State Security Service.²⁰ If you wanted education for yourself or your children you had to concede to the party. This was also true for employment. Many intellectuals refusing to be a part of the system preferred to work or were forced to work in area that did not employ their education.

During the four and a half decades of darkness in East Central Europe there were a few periods where a ray of light shined through bringing the peoples a moment of hope, but in most cases this light was shut out almost instantly by the backbone of the regime, the army. The Soviet Union forced upon many of these nations their own system of government, developed in 1922 and subjugated upon peasants by a few educated intellectuals. East Central Europe in 1945 resembled nothing of Russia in 1922. Resistance movements began with the working class, the foundation of the socialist system, shortly after the death of Stalin and Khrushchev's "thaw" (de-Stalinization) began. The first of these stirrings began in June of 1953 and spread eastward to Poland and Hungary in 1956. Hungary will not be discussed in this research but it is important to know that in the fall of 1956, workers, students, citizens and eventually the government united in a revolution against Moscow and informed them of their intention to allow elections, withdraw from the Warsaw Pact, and claim neutrality. Moscow responded with the infliction of the Red Army.²¹ After the invasion of Hungary, central Europe remained rather quiet until the attempts of world revolution in the late 1960s where intellectuals and workers took to the streets again. The 1970s provided détente featuring the Helsinki Agreement in 1975 that was signed by all European states except Albania. While Helsinki did officially recognize the current borders of Europe, it also guaranteed basic human rights and the "fundamental freedoms including freedom of thought, conscience, religion and belief."²² The Soviet Union and other satellite nations

²⁰ Pawel Piekarski, Former Director of the Office of Senator Romaszewski, Poland, Interview by author, April 15, 2008, Warsaw, Poland.

²¹ Rothschild, 126-128.

²² Robert Zuzowski, *Political Dissent and Opposition in Poland: the Worker's Defense Committee "KOR,"* Westport, CT: Praeger Publishers, 1992, 83.

chose to ignore the second half of the agreement. The struggles that the three nations researched in this study faced over their forty plus years of oppression is essential when evaluating their process of transitional justice and will be reviewed in the following pages.

A. POLSKA RZECZPOSPOLITA LUDOWA

“‘Yalta’ for the Poles means that, after their army had been the first to resist Hitler, after Britain had gone to war in defense of Poland’s independence and Polish servicemen had fought courageously in defense of Britain, after some six million of their compatriots (one in every five citizens of the pre-war Polish Republic) had died in the war – after all this, their country was delivered up by the western allies, Britain and America, into the famously tender care of ‘Uncle Joe’ Stalin.”²³ The conference at Yalta in 1945 granted the Soviets as protectors of the Polish nation. Stalin promised free and fair elections in Poland but produced anything but.²⁴

The Poznan workers insurrection in 1956 was the first formal revolt against the regime. The quality of life for the workers was declining along with their wages. They found themselves unable to acquire basic needs such as food, clothing, and decent housing.²⁵ In order to receive attention from the government, over 100,000 citizens marched on the 28th of June to the local People’s Council. Representatives from Warsaw were not able, nor did attempt, to control the situation peacefully. Arrests were followed by civil unrest that lasted two days. In order to avoid Soviet intervention, the party enlisted the Polish Army to quash the insurrection. Seventy five people were killed and over nine hundred were wounded.²⁶ Following the insurrection many government officials were relieved from duty and in accordance with the “thaw” nationalist political reforms were implemented.²⁷ What was to become known as the “Polish October” was

²³ Timothy Garton Ash, *The Polish Revolution: Solidarity*, New York: Vintage Books, 1985, 1.

²⁴ Ibid., 5.

²⁵ Rothschild, 151-152.

²⁶ A. Kemp-Welch, *The Birth of Solidarity*, New York: St. Martin’s Press, 1991, 4.

²⁷ Rothschild, 151-152.

the result of Poznan. Wladyslaw Gomulka was reinstated as the Party Secretary, after being ousted in 1948, and promised the workers self-management, the farmers de-collectivization, and the church freedom to teach and practice.²⁸

A smaller crisis arose in 1967 during the Arab-Israeli war where Jewish students and intellectuals openly supported the Israeli victory (the Soviet Union supported the Arabs). The secret police launched an anti-Zionist campaign and many Jews lost their jobs and emigrated.²⁹ In March of 1968, students protested after they were forbidden to act out a traditional Polish but anti-Russian play. Non-violent protests emerged throughout Poland resulting in no concessions, expulsion from Universities, jail time, and loss of employment for academics and intelligentsia. The government blamed the students of Jewish origin as the ring leaders up this uprising, one of those students arrested was the future dissident Adam Michnik.³⁰

In 1968 as the students and intellectuals protested the majority of the workers stood by refraining from involvement. The students and intellectuals in 1970 returned the favor. Just a week shy of Christmas in 1970 the Polish government decided to increase the price of food by 36%.³¹ On 14 December, workers in the Gdansk Shipyard immediately protested. Over three thousand workers marched the streets, but unlike in 1956, these protestors turned to attacking government buildings. The government retaliated with force and many workers were killed. The following day over ten thousand marched the streets in Gdansk and more were killed. On 16 December, workers were shot outside the gate of the shipyard.³² Within four days over a hundred factories were on strike. Gomulka was relieved of his duties as Party Secretary and replaced by Edward Gierek the next day. Negotiations between the party and the workers were concluded in February of 1971 with a reduction of food prices.³³

²⁸ Kemp-Welch, 5-6.

²⁹ Nicholas G. Andrews, *Poland 1980-1981*, Washington, D.C. National Defense University Press, 1985, 16.

³⁰ Zuzowski, 36-39.

³¹ Garton Ash, 11.

³² Kemp-Welch, 9-10.

³³ Zuzowski, 45-46.

Living conditions improved and Poland experienced an economical boom. This boom can be attributed to détente and the funds provided by the West. Eventually the loans had to be repaid and the situation in Poland in the late 1970s began to deteriorate.³⁴ The workers again protested and many of them were arrested. Intellectuals joined the fight and developed the Workers' Defense Committee (KOR) to legally and financially assist those arrested and their families. KOR activists were also arrested but were rescued by 'Helsinki' and détente when all prisoners were released prior to the arrival of President Carter in 1977. KOR became the "bridge" between the workers and the intelligentsia and was the foundation for the rise of Solidarity in 1980.³⁵

In 1980, something unique happened in Poland. Workers, students, intelligentsia, clergy and farmers joined together in protest against the government. They found unity in Solidarity. Through a 17,000 persons strike in Gdansk in August of 1980³⁶, the government conceded to Lech Walesa, leader of the Gdansk movement, and signed an agreement for workers wage increases, reduction in prices of consumer goods, the legal right to strike, and the right to form trade unions.³⁷ Due to the strike, Solidarity was legally formed in 1980 as a trade union that had its foundation in KOR and the 1970 strikes in Gdansk. Originally attempting to steer clear of politics, focusing solely on civil society, Solidarity was forced to get involved.³⁸ Solidarity became a mass movement with almost 10 million members from throughout Polish society.³⁹ This movement supported unions throughout the nation and negotiated for them directly with the Polish government. When their demands were not met, they had the power to implement a nation-wide strike.⁴⁰ The movement did not last as Prime Minister Jaruzelski believed

³⁴ Zuzowski, 82-83.

³⁵ Garton Ash, 17-19.

³⁶ Andrews, 27.

³⁷ Rothschild, 199.

³⁸ David Ost, *Solidarity and the Politics of Anti-Politics*, Philadelphia: Temple University Press, 1990, 75-76.

³⁹ Garton Ash, 155.

⁴⁰ Anderson, 109-110.

“there is no place for two authorities within one state.”⁴¹ In December of 1981, he declared martial law. Within hours the leaders of Solidarity, trade unions, and other opposition movements were arrested and the organizations were outlawed. Those who were not arrested went underground. As Solidarity was a non-violent organization, there was minimal resistance.⁴²

“When attacked, they (Polish) defended themselves; physical violence was usually met with physical defense regardless of one’s chances, since the point was not so much to win as to ‘give testimony’. To give testimony, in this context, is to state that one prefers death in a struggle to life in bloodless surrender. To surrender without a fight was until then a disgrace for Poles; it was considered unmanly and cowardly behavior.”⁴³ Throughout the years of “occupation,” the citizens continued to fight against the oppressive regime, just as they had in 1944 against the Nazis. Beginning with Poznan in 1956, there remained a constant dialog between the leading dissident organizations/workers unions and the government. This proved beneficial when Gorbachev attempted to implement his policies of glasnost and perestroika and the Polish government entered negotiations with Solidarity in 1989.

B. CESHOSLOVENSKO

While Hungary and Poland were revolting against the Soviet regime in 1956, Czechoslovakia at least in appearance remained a strong supporter of the Soviet apparatus with an adherence to Stalinist power even after his death. In contrast to Poland, the Czechs and Slovaks enjoyed economic growth and the nation was relatively stable. There was no struggle to define or alter the communist system as in other nations during Nikita Khrushchev’s “thaw.” In fact, Czechoslovakia’s First Secretary Antonin Novotny saw “de-Stalinization” as “being synonymous with weakness and yielding to the forces of reaction.”⁴⁴ Novotny’s Stalinist ideals were in opposition to Khrushchev’s

⁴¹ Anderson, 115.

⁴² Zuzowski, 220-221.

⁴³ Ibid, 221.

⁴⁴ Rothschild, 134.

policies, allowing for the Slovak Communists under Alexander Dubcek to pressure for reforms without the wrath of Moscow. The mid 1960s saw a few reforms concerning the economy and government but failed to meet the expectations of the members of the party that opposed Novotny, the intellectuals, and the students. By the end of 1967 Czechoslovakia found itself immersed in civil unrest. The party was divided, and students and intellectuals were openly resisting the regime and demanding change. Within the first month of 1968 Brezhnev backed Dubcek's reform program and replaced Novotny.⁴⁵

During 1968 protests sparked and attempted revolutions ensued around the world. In France, Germany, China, Poland, Czechoslovakia, and the United States, students and intellectuals took to the streets to voice their discontent with their governments. Czechoslovakia embraced this revolution as Dubcek planned for reforms that would jump start the economy and the party. Censorship was abolished, trade unions were developed, and the party structure was altered. His reforms of "socialism with a human face," were widely received across the nation.⁴⁶ Speaking with one individual who was a student during the Prague Spring, her face lights up as she remember what the feeling was like being part of the movement. "Many people were proud and had hopes for Prague Spring."⁴⁷ Prague Spring "aimed to build a more utopian society based on shared needs," a class-less society of workers and intellectuals that was neither capitalist nor communist.⁴⁸

Dubcek received support from Moscow in his reforms, but with caution. Brezhnev was concerned with the fast pace of reforms and finally called upon Dubcek to regain control of the population. Intellectuals began to openly criticize the government and published the "2,000 words" document which "called on the people to take the

⁴⁵ Jeremi Suri, *Power and Protest: Global Revolution and the Rise of Détente*, Cambridge: Harvard University Press, 2003, 196-197.

⁴⁶ Rothschild, 170.

⁴⁷ Markusova.

⁴⁸ Suri, 200.

process of liberalization into their own hands and away from the party.”⁴⁹ Dubcek called to the people for a combined effort to improve the party and implement reforms, he even promised elections by a secret ballot.⁵⁰

Unfortunately, Czechoslovakia’s neighbors in Poland, East Germany, and the Ukraine were not happy with the internal political movements that were occurring. The freedom of the press was starting to cross over the borders and began to threaten their government. Czechoslovakia’s neighbors were afraid of these revolutionary ideas poring over into their states. They pleaded to Moscow to control Dubcek who refused to take action against his citizens. Brezhnev could no longer stand by as he watched the people of Czechoslovakia attempt to dissolve the Communist Party.⁵¹ The armies of the Warsaw Pact nations invaded Czechoslovakia in August of 1968 as a “nominal undertaking of the ‘fraternal’ Warsaw Pact in response to an appeal from loyal Czech Communists.”⁵² The Soviet Union could not afford to allow this “ideologically dangerous and politically contagious” process to continue.⁵³ Moscow managed to quash the reforms and beat the Czechoslovak people into submission. Dubcek was forced to roll back the reforms and the Soviet troops remained in country.

Overwhelmed with defeat, the people removed themselves from public life and fell under a policy of “internal emigration” where they focused on their family and home life. Even prominent Communists were asked to sign an affidavit if claiming that they “agree with the fraternal assistance of the Warsaw Pact.” If they refused or use the words “occupation” they were persecuted and often jailed. Many of these communist turned into dissidents.⁵⁴ But mostly, the Czechoslovak people lost all hope of a free society.

⁴⁹ Martin Malia, *The Soviet Tragedy: A History of Socialism in Russia, 1917-1991* NY: Free Press, 1994, 393.

⁵⁰ Rothschild, 138.

⁵¹ Suri, 202-203.

⁵² Malia, 393.

⁵³ Rothschild, 172.

⁵⁴ Markusova.

It was not until a small rock group, “The Plastic People of the Universe,” was arrested and put on trial that the Czech peoples took notice.⁵⁵ In 1975, the Czechoslovakian government became a signatory to the Helsinki agreement and the United Nations’ International Covenant on Civil and Political Rights and the International Covenant on Economic, Social and Cultural Rights.⁵⁶ The arrest of the rock band and other political prisoners after 1975, violated the freedoms outlined in these agreements. The people of Czechoslovakia were tired of standing by quietly as they had done since 1968. The voices of workers, intellectuals, and students were implemented into Charter 77; “a combination of a statement, a petition, and a declaration of intent” that documented “grievances and suggested remedies” against and for the government.⁵⁷ Vaclav Havel, signatory of Charter 77, claimed that, “not standing up for the freedom of others meant surrendering one’s own freedom.”⁵⁸ Charter 77 addressed the violations of the freedoms guaranteed by the UN covenants and the Helsinki agreement by the Czechoslovakian government; freedom of expression, right to education, freedom of information and public expression, freedom of religious confession, the leading role of the party, right to leave the country, right to establish trade unions and the right to strike, and other violations of rights and duties by the police.⁵⁹ These grievances, with over 800 signatories, were presented to the government and Federal Assembly.⁶⁰ The government responded with persecution; arrests, imprisonment, loss or reassignment of employment, denial of higher education to their children and forced emigration.⁶¹ The peoples of Czechoslovakia once again fell into submission until the mid 1980s.

⁵⁵ Vaclav Havel, *The Power of the Powerless*, New York: M. E. Sharpe, Inc, 1985, 46.

⁵⁶ Vladimir V. Kusin, *From Dubcek to Charter 77*, New York: St. Martin’s Press, 1978, 304.

⁵⁷ Ibid., 309, 321.

⁵⁸ Havel, 47.

⁵⁹ Kusin, 306-307.

⁶⁰ Ibid., 305, 309.

⁶¹ Rothschild, 167.

C. DEUTSCHE DEMOKRATISCHE REPUBLIK

“Unlike Eastern Europe, where Leninist regimes were installed by sheer force, communism in Germany appeared as a positive ‘moral option’ that seemed to draw the adequate lesson from the defeat of Nazism.”⁶² The new anti-fascist East German state drew in many Germans that were excited about the possibility to participate in this new state that separated itself from its past and provided hope for the future.⁶³ Since the founding of the German Democratic Republic (GDR) in October of 1949 resistance and dissent to the communist regime was minimal. Upon the death of Stalin in 1953 political unrest was emerging throughout East Central Europe. In East Germany large riots broke out of workers protesting food rationing, salary, and work conditions on 17 June 1953.⁶⁴ Over five hundred thousand workers protested throughout East Germany (100,000 in Berlin) in one day. These riots were immediately and harshly suppressed by the government with the assistance of the Red Army and close to fifteen hundred protestors were sent to prison.⁶⁵ This was and remained the only significant public unrest that occurred during the forty year history of the GDR until the summer of 1989, although small resistance groups had developed in the late 1970s.

After the forced annexation and assimilation to the Soviet Union, with streamlined one-party systems and Stalinist terror, followed the cautious reassertion of national independence, forging a kind of community of destiny between the national communist rulers and their subjects. In nationless East Germany, the demarcation line between mobilization and post-mobilization had to be less clear-cut.⁶⁶

The closure of the borders in and out of East Germany assisted in the control of dissenters and nonconformists. Dissent organizations were minimal and unorganized. Disgruntled

⁶² Christian Joppke, *East German Dissidents and the Revolution of 1989*. New York: New York University Press, 1995, 31.

⁶³ Ibid, 31-34.

⁶⁴ Rothschild,

⁶⁵ Berman, 46.

⁶⁶ Joppke, 47.

citizens were kept in line with consumer goods, bought from western deusechemarks and those that could not be bought off by the Stasi were either exiled or imprisoned.⁶⁷

East Germans enjoyed one of the highest standards of living in the Eastern Bloc, symbolized by the availability of consumer goods and vacations to the Black and Baltic Sea. They had an advanced economy and a thriving industrial sector while other nations, such as Bulgaria, were forced to export their natural resources to them in return for machinery.⁶⁸ The East German military (NVA) sought to be the finest Warsaw Pact army and in 1956 they joined the Warsaw Pact. The NVA also participated in the invasion into Czechoslovakia in 1968. East Germany was a model state for those of the Eastern Bloc to mirror. Did the GDR lack significant dissent movements because the people were living in this model of utopian society? Or was fear and intimidation installed at such an early stage of the development of the nation that the ideas of freedom of expression and thought became implausible?

Shortly after the end of the war, Soviet security services and East German Communists swept up thousands of ex Nazis and other citizens who voiced their opposition to the soviet occupation and the installation of the socialist unity regime. The Social Democratic Party was forcibly merged with the German Communist Party in 1946. All of those that opposed were arrested. Many of those arrested were sent to the former SS run concentration camps of Sachsenhausen and Buchenwald and to Soviet Labor camps for up to twenty-five years with a sham of a trial, or no trial at all. A majority of these arrests in the years after the war were conducted by political police known as the *Kommissariat 5* which was established by the Soviet occupiers. Up to 180,000 Germans were arrested during this period from 1945 to 1949. Of those 65,000 perished and 36,000 were confined to Soviet gulags. In February of 1950 the Ministry

⁶⁷ Noel Calhoun, *Dilemmas of Justice in Eastern Europe's Democratic Transitions*, New York: Palgrave Macmillan, 2004, 52-53.

⁶⁸ Rothschild, 130, 156, 170.

for State Security (MfS), or the Staatssicherheit (Stasi), was founded.⁶⁹ This was the beginning of the reign of terror that would prevail over the citizens of the GDR for the next forty years.

D. THE SOVIET CHEKIST SYSTEM

The Conference of Yalta in 1945 sealed the fate of the peoples of Eastern Europe.

Germany was divided and Poland was under Soviet control. From the Baltic Sea to the Adriatic, Europe was divided in half with the occupation of Soviet troops in the East. Puppet regimes from Moscow were installed in Eastern Europe across from East Germany to the Black Sea. At the heart of Soviet Communism stood its protector, the security apparatus or secret police. As Communist regimes gained power throughout the Soviets assisted with the installation and training of each state's security apparatus, modeled after the NKVD (the People's Commissariat of Internal Affairs of the Soviet Union). Its mission was very clear: protect the party and destroy any "opponents of the new order."⁷⁰

The secret or political police infiltrated every sector of public and private life during the second half of the twentieth century throughout Russia and Eastern Europe. These organizations, described as an "octopus,"⁷¹ subdued their own citizens through fear, blackmail, and sometimes arrests and torture. Every year that passed under the communist regime the secret police grew stronger and their networks grew larger. Agents were operating in almost every known organization in the country. Through effective training and advance technologies, such as recording devices, the secret police were almost unstoppable.⁷² "Wherever two or three are gathered together, there the Party-state desires to be."⁷³ The most well known groups of the secret police were the

⁶⁹ Berman, 43-45.

⁷⁰ Persak, 7.

⁷¹ John O. Koehler. *Stasi: the Untold Story of the East German Secret Police*, Oxford: Westview Press, 1999, 9.

⁷² Persak, 7.

⁷³ Garton Ash, 8.

KGB and the Stasi. The next few pages will discuss the Stasi and the state security apparatuses in Poland, the Sluzba Bezpieczenstwa, and the Statnibezpečnost in Czechoslovakia.

STAATSSICHERHEIT

The sole existence of a separate Germany was justified by socialism. East Germany was the border, or the front line, of socialism against capitalism, good versus evil. In order to defend the good, East Germany needed an army of ideological enforcers, the Stasi. “The gargantuan size of its secret police apparatus attests, the GDR was the ultimate combat regime of the Soviet hemisphere.”⁷⁴ Legislation passed by the Volkskammer, the East German parliament, concerning the MfS stated that “the most important tasks of the Ministry will be to protect the national enterprises and works, transport and national property from plots of criminal elements as well as against all attacks, to conduct a decisive fight against the activities of hostile agents networks, subversives, saboteurs and spies, to conduct an energetic fight against bandits, to protect our democratic development and to ensure an uninterrupted fulfillment of the economic plans of our democratic free economy.”⁷⁵

The MfS was developed from models of the KGB and the Gestapo, therefore “had arguably the best control of any state in the East.”⁷⁶ This was essential as the DDR daily faced the evils of the West. They were the front line of socialism and the protector of the party from within and considered themselves to be the “shield and the sword of the Party.”⁷⁷ Responsible for “internal intelligence operations,” they infiltrated every

⁷⁴ Joppke, 48.

⁷⁵ David Childs and Richard Popplewell, *The Stasi. The East German Intelligence and Security Service*. New York: New York University Press, 1996, 47.

⁷⁶ Edward N. Peterson, *The Secret Police and the Revolution. The Fall of the German Democratic Republic*. Westport: Praeger, 2002, 17.

⁷⁷ Childs, 69.

public, private, and social institution in the state. They enforced a strict adherence to the rule of law on their populace. In addition to internal infiltration, the MfS were present in every single West German ministry.⁷⁸

The MfS got off to a rocky start by failing to prevent the first major uprising in Central Europe in 1953. After cleaning house, and under the leadership of Lt Gen Erich Mielke, the Stasi's power increased and assumed responsibilities over the military, foreign espionage, and the border patrol.⁷⁹ The old methods of torture and continuous interrogations were decreased and arrests were limited to prevent civil unrest while intelligence, especially surveillance, became the main tool for state oppression. The postal system was monitored by the MfS inspecting letters and packages daily. Phones were tapped, living spaces and work places were bugged, and cameras were installed.⁸⁰ Repression of GDR citizens was limited by the international agreements on human rights and also was under close watch from its capitalist half.⁸¹ Through the gathering of information and the assistance of "unofficial informers" or collaborators, citizens were legally arrested and tried with sufficient "evidence." Almost all of the guilty succumbed to mental or "white torture" and confessed their "crimes."⁸² This preventive surveillance assisted to maintain relative peace and proved successful during the summer of 1968 when only 2100 citizens, sympathetic to the Prague Spring, protested in the GDR.⁸³

The "main weapon in the fight against the enemy"⁸⁴, the *Inoffizielle Mitarbeiter* (IM) or unofficial colleagues (collaborators), was an average citizen that believed in the protection of their "peace-loving state" and considered informing to be a "responsible activity." Others were members of the opposition that were blackmailed or individuals that knew that the Stasi could assist them in acquiring goods or services or provide

⁷⁸ Berman, 68.

⁷⁹ Persak, 169.

⁸⁰ Ibid, 180-181.

⁸¹ Childs, 95.

⁸² Persak, 179-180.

⁸³ Ibid, 187.

⁸⁴ Ibid, 198.

advancement in their careers.⁸⁵ Through the use of IMs the MfS was able to infiltrate the most critical social institutions, intellectual organizations and the church.⁸⁶ A large majority of intellectuals remained loyal to the GDR from the beginning, but surveillance was still required for the few non state supporters attempting to publish critical works in the West.⁸⁷ In some organizations every fourth member was working for the MfS.⁸⁸ The church was “the only social institution which remained ideologically estranged from the system,” and by 1989 over 800 IMs resided in the Church body.⁸⁹

It was also very common for family members to report on each other. Much like the Hitler Youth, students were encouraged to report anti-state activity occurring in their home. One East German dissident, Gerd Poppe, learned of Stasi attempts to turn his family against him when reviewing his file after 1989. As per Stasi order, the school his son attended ensured that the boy received socialist teachings with a “positive influence” in order to demonstrate the “uselessness of their hostile activities” (parents). The Stasi also contacted his wife, Ulrike Poppe, a human rights activists, and planned to: “To encourage Ulrike Poppe in her current intention to separate from her husband, suggest that if she were to drop all her public activities and stop cooperating with the enemy, she might be able to embark on a program of advanced studies. She should be encouraged to believe that if she separates from her husband, she will be financially secure. The travel ban could be eased to allow travel to socialist countries. To exacerbate the marriage crisis, contact person ‘Harald’ will be introduced to Mrs. Poppe with the aim of establishing an intimate relationship.”⁹⁰

Upon the collapse of East Germany in 1989 there were over 91,000 employees of the MfS. This numbers far exceeds that of East Germany’s neighboring Warsaw Pact

⁸⁵ Childs, 83-84.

⁸⁶ Calhoun, 53.

⁸⁷ Persak, 193.

⁸⁸ Peterson, 28.

⁸⁹ Persak, 192-193.

⁹⁰ “East Germans Face their Accusers,” *New York Times*, April 12, 1992.

nations and equals approximately one employee per 180 citizens.⁹¹ This was also significantly larger than the Gestapo⁹² which was responsible for policing the whole of Germany and its occupied territories. From the beginning of the MfS, IMs were incorporated into the security apparatus. Starting with less than 10,000, by 1989 there were 174,000 registered collaborators working for the Stasi.⁹³ This number also far exceeds that of any of East Germany's fellow socialist states. Due to the small size of East Germany, the ratio of MfS employees and IMs to the number of citizens is also incomparable to the other neighboring states.

SLUZBA BEZPIECZENSTWA

As in Germany prior to the end of the war, thousands of Polish citizens were arrested by the NKVD and local communist security services. Many of those arrested belonged to the Home Army, which fought against Hitler's Nazi Army, or resistance fighters that were not part of the communist party. Initially formed by the NKVD from the members of the People's Army and a few who served in the Soviet Special Forces, the members of the security apparatus were young and uneducated individuals who relied on brute tactics and lacked any sort of moral fiber. Thousands of these young agents were charged with theft, rape, drunkenness, lawlessness, and collaborating with the anti-communist underground.⁹⁴ Those that were arrested were subjugated to torture, beatings and humiliation in order to obtain confessions.⁹⁵ The "thaw" produced political unrest throughout Poland in 1955 and 1956. Many of the agents of the secret police refused to collaborate. The security apparatus collapsed failing to prevent the uprisings of the "Polish October" in 1956. Within a month, the old system was abandoned and the SB was formed.⁹⁶

⁹¹ Persak, 174.

⁹² Peterson, 26.

⁹³ Persak, 199.

⁹⁴ Ibid, 240-243.

⁹⁵ Ibid., 253.

⁹⁶ Persak, 227.

The Sluzba Bezpieczenstwa (SB) was established in 1956 under the Ministry of Internal Affairs. It replaced the old Ministry of Public Security, and was tasked to “protect the democratic people’s system established by the Constitution of the Polish People’s Republic and the national interest against enemy espionage and terrorist activity.”⁹⁷ The SB consisted of many departments: intelligence, counterintelligence, combating hostile activity and organized opposition, surveillance of religious organizations, industry, transport, communication and farming, operational technology, correspondence control, radio counter-intelligence and protection of the party leadership.⁹⁸

These departments employed many of the same instruments of surveillance as the Stasi in the GDR. A large percentage of correspondence passing through the post office was inspected daily, especially during periods of civil unrest. Eavesdropping through the use of phone taps, bugs, and photography was utilized. But where the SB got the most ‘bang for their buck’ was through the use of secret collaborators.⁹⁹ Within the SB there were three types of collaborators; the *tajny współpracownik* (TW), those “formally recruited by the SB,” the *kontakt poufny* (KP/KO), short-term confidential contacts, and the *kontakt sluzbowy* (KS), official contacts, “people who provided the SB with information in connection with their managerial or executive functions.” Only the TW signed a contract with the SB.¹⁰⁰ The number of TWs throughout Poland after 1956 remained minimal (average 10,000) until civil unrest surfaced in 1968/1970, where the number almost doubled. The number of TWs recruited continued to increase to over 30,000 by the time Martial Law was implemented in 1981.¹⁰¹ SB personnel and TWs attempted to infiltrate every civil organization in Poland. They impeded the development of a peasant trade union, attempted to “disintegrate the clergy,” lead student protestors into the hands of the SB, and turned or discredited opposition leaders. Solidarity,

⁹⁷ Stan, 3.

⁹⁸ Ibid, 3-4.

⁹⁹ Persak, 248-250, 259.

¹⁰⁰ Persak, 258.

¹⁰¹ Ibid., 259.

founded in 1980, was the only organization they were unable to effectively influence.¹⁰² After 1956, the use of force was not as frequent in the SB and they relied on arrests and harassment (detention, searches, loss of employment, confiscation, fines) to control the population.¹⁰³

“By 1989, the SB had become one of the most important power structures in the Polish State.”¹⁰⁴ In 1988 there were 98,000¹⁰⁵ working informers in Poland.¹⁰⁶ This number was in one single year alone, and tripled in eight years from the number of collaborators in 1980.¹⁰⁷ After forty-four years of collaboration there were hundreds of thousands of collaborators. Each individual had their own reason to collaborate with many of them not knowing that they were actually hurting anyone.

STATNIBEZPECNOST

In the struggle against the German occupiers of World War II, the democrats and communists united together forming a “National Front” coalition government.¹⁰⁸ Unlike in Poland, where the Soviets were viewed as ‘occupiers’, the Czech and Slovak people had always perceived Russia and the Soviet Union as the saviors of the Slavic people.¹⁰⁹ Their assistance in ridding the nation of the German aggressors was welcomed. But what the Czechs and Slovaks did not expect was the “seizure of power” that followed. The communists gained full control of the government through “free elections” in February 1948.¹¹⁰ The National Security Corps (SNB) was initially established in 1945 and divided into three sections: independent criminal, intelligence, and state security (StB). Shortly after the communists gained control of the government, the StB became

¹⁰² Persak, 266-270.

¹⁰³ Ibid., 275.

¹⁰⁴ Berman, 138.

¹⁰⁵ This number does not take into account the “confidential” and “official” contacts, only the TWs.

¹⁰⁶ Stan, 5.

¹⁰⁷ Persak, 261.

¹⁰⁸ Berman, 29.

¹⁰⁹ Rothschild, 71.

¹¹⁰ Berman, 29.

autonomous of the SNB in order to better “prosecute political or class enemies, including the ‘struggle’ against Western influence.”¹¹¹ As in Poland and East Germany, the state was cleansed of non-communists resulting in closure of newspapers and periodicals, and the purging of “universities, professional bodies, sports clubs, the publishing industry, and the civil and military services.”¹¹² Those who were “cleansed” were executed or sent off to one of the 422 forced labor and prison camps. Many did not receive a trial.¹¹³

As the StB was established under the supervision of the KGB, operationally it resembled the Stasi and SB. Like those institutions it also held executive and investigative powers, which included the ability to make arrests, conduct interrogations, search homes and offices, and prosecute its victims.¹¹⁴ In the early stages of the StB, members also used physical and mental violence to interrogate their prisoners. They were “beaten in the face with a rubber hose, beaten with a truncheon all over their body,” forced to stand continuously as they were interrogated, allocated minimal and interrupted sleep, and their families were also threatened.¹¹⁵ One Czech citizen recalls his arrest by the StB, “the welcoming I got in Plzeň was terrible. At that time, you didn’t know who was kicking you. They bashed out all your teeth and left you lying in a pool of blood. But somehow I expected it.”¹¹⁶

The instruments of the StB’s trade were also very similar to the Stasi and SB, relying on surveillance but with limited electronic capabilities. But in Czechoslovakia, unlike in Poland and East Germany, correspondence received much more attention. The StB developed a registry of names and addresses of those who either sent or received foreign mail, over three million names and addresses were tracked. Usual inspection of

¹¹¹ Persak, 88.

¹¹² Rothschild, 76.

¹¹³ Persak, 133.

¹¹⁴ Berman, 32.

¹¹⁵ Persak, 118.

¹¹⁶ “Stransky honors comrades in arms,” *Prague Post*, November 28, 2007.

correspondence to and from suspected criminals or dissenters was also conducted daily.¹¹⁷ The most important method of intelligence gathering still remained the individual collaborator.

The brutal tactics used early on in the StB were replaced by mental influence. The StB employed their agents and collaborators throughout governmental agencies, public institutions, the church, private institutions, and social organizations. They used their influence to control these organizations through top management or mislead social organizations by providing false information and attempting to turn the members against each other.¹¹⁸ After the network disintegrated in the summer of 1968, it managed to recover concluding with a total of almost thirty thousand collaborators by the end of 1989.¹¹⁹ This of course was no comparison to the size of the networks in Poland or East Germany which could be attributed to the minimal dissident activity after 1968.

THE CITIZEN – TOOL OF THE STATE

Many nations throughout the world have a “special” sector within their government to address enemy espionage and terrorist activities; in the United States we have the Central Intelligence Agency and the Federal Bureau of Investigation and now a Department of Homeland Security. Pointedly, the KGB, Stasi, and SB differed, in the crucial dimension that they were organizations of a totalitarian political party, without any checks and balances. These organizations would not have been successful if it was not for the network of collaborators who were recruited over the years.

According to Andrew Rigby, author of *Justice and Reconciliation* and director of the Centre for the Study of Forgiveness and Reconciliation at Coventry University in the United Kingdom, under the German occupation of Europe there were four types of collaborators in the Nazi New Order. The traitor: “unconditional collaboration for private gain,” the accommodationist: “collaboration in order to survive,” the patriotic

¹¹⁷ Berman, 31-32.

¹¹⁸ Ibid., 32-33.

¹¹⁹ Persak, 130, 132.

traitor: “collaborationist in service of the occupier’s cause,” and the conditional collaborator: “to serve the wider community.”¹²⁰ All of these definitions can be generalized to apply to the citizens of Eastern Europe and their collaboration with the secret police during the Communist Regime. Individuals were recruited to collaborate based on their ability to provide information on certain individuals or organizations. Many citizens’ profession provided insight for the secret police, such travel agents who turned in lists of names of clients seeking travel.¹²¹ Many of the collaborators were blackmailed while others were offered money, goods, services, and travel as a reward for their information. Recruited collaborators were also only employed for a certain period of time only when they could provide required information.¹²² In almost every organization, dissident or not, there was an informer. Their network infiltrated every part of the society and government. Young adults informed on their friends and family. Citizens informed on their co-workers and friends. Wives reported on their husbands and vice versa. Thousands of dissidents were arrested based upon information produced by these collaborators. Even those dissidents that were victims of collaboration became collaborators themselves for one reason or another.

We are all in this together – those who created this regime; those who accepted it in silence; and all of us who subconsciously became accustomed to it. — Vaclav Havel¹²³

It is understandable that one would want to protect their family and compromise with the powers of party and state to do so. But the worst of these collaborators were those individuals who were not fortunate to be a part of the socialist elite, but still wanted to live like them. They assisted the secret police in any possible way to obtain benefits for their own selfish needs and to get ahead in public life.

¹²⁰ Rigby, 20.

¹²¹ Marketa Hulpachova, The Prague Post, Interview by author, 17 April 2008, Prague, Czech Republic.

¹²² Dr Pavel Zacek, Director, Institute for the Study of Totalitarian Regimes, Interview by author, April 18, 2008, Prague, Czech Republic.

¹²³ “Secret files haunt Eastern Europe,” *BBC*, August 21, 2006.

III. THE CZECH REPUBLIC AND GERMANY POST 1989

Unlike Poland, East Germany and Czechoslovakia's hardliner regimes ignored Gorbachev's policy of glasnost in the late 1980s. They were the economic powerhouses of the socialist system and did not view these new reforms as necessary to their states.¹²⁴ But as Poland initiated its Round Table Talks and elections in 1989, protests erupted in East Germany and Czechoslovakia. Public dissent and student demonstrations emerged throughout the summer. Upon the fall of the wall in Berlin, the people of Czechoslovakia once again marched the streets of Prague. In less than three weeks the Czechoslovakian Communist government folded. By the end of the year they handed over the keys of the nation to the leader of the opposition, Vaclav Havel. This bloodless turnover was to be known as the "Velvet Revolution."¹²⁵

A. VELVET REVOLUTION

Many argue that the Velvet Revolution was not a negotiated transfer of power thereby allowing for swift legislation against the communists and their collaborators.¹²⁶ The newly formed government consisted of many former communist who still were holding the same positions before the revolution. These individuals were required to help keep the government afloat while in transition. Czechoslovakia was the first East Central European state to pass legislation concerning "decommunization," but it wasn't until almost two years later in October of 1991 that this occurred.¹²⁷ Initially, Havel and others were against such legislation. Many leaders of the opposition and new government were active dissidents who after spending years in jail had a complete understanding of the operations of the secret police and their influence over the people.

¹²⁴ Malia, 456-457.

¹²⁵ Rothschild, 190.

¹²⁶ Rigby, 99.

¹²⁷ Rothschild, 217.

When I talk about a decayed moral environment...I mean all of us, because all of us have become accustomed to the totalitarian system, accepted it as an inalterable fact and thereby kept it running. In other worlds, all of us are responsible, each to a different degree, for keeping the totalitarian machine running. None of us is merely a victim of it, because all of us helped to create it together....We cannot lay all the blame on those who ruled us before, not only because this would not be true but also because it would detract from the responsibility each of use now faces.¹²⁸ (Vaclav Havel 1990)

One month after Havel made his New Years speech (noted above), the StB was dismissed and the Ministry of the Interior sealed their archives.¹²⁹ Agents were directed to infiltrate the government and media, obtaining positions that would facilitate the “counterrevolution.”¹³⁰ Those security personnel requesting to return to the new security service were permitted only after being screened for past atrocities. The Ministry of Interior who continued to maintain the secret police files conducted the screening process. Many of these same agents were permitted to reoccupy “top executive positions.”¹³¹ Surprisingly many files disappeared or were destroyed during this period.¹³²

Within a year of the files being sealed a “wild lustration” emerged. Individual political parties, minus the communist party, screened their members for connections with the secret police and members of the parliament were also vetted for past ties with the former regime. The Ministry of the Interior, whom the StB fell under during the previous regime, conducted the screening process. Names of agents and collaborators were made public knowledge. Many of those individuals accused denied the claims against them and others refused to resign their positions.¹³³ Names were also mysteriously leaked to the public resulting in political consequences. “Prague is filled with rumors, gossip, suspicion and fear, much of it based on false information from the

¹²⁸ Elster, 187.

¹²⁹ Berman, 34-35.

¹³⁰ Elster, 188.

¹³¹ Berman, 35-37.

¹³² Rigby, 102.

¹³³ Mayer-Rieckh, 310.

StB files...Immediately after the revolution a number of people somehow found ways to see their own and other people's files and were able to photocopy them and even destroy them."¹³⁴ The need for some sort of official lustration was supported by over 80% of the population.¹³⁵

B. CZECH LUSTRATION

After almost a year of wild lustration, the Czechoslovakian National Assembly passed legislation in October of 1991. The Lustration Act banned "former Communist officials and collaborators of the Secret Police" from:

holding positions in the state administration at both the federal and the republican levels; the Czechoslovak Army (the rank of colonel and higher); the federal Security and Information Service; the federal intelligence agency; the federal police; the Office of the President; the Office of the Federal Assembly; the Office of the Czech National Council; the Office of the Slovak National Council; the offices of the federal, Czech and Slovak governments; the offices of the federal and republican Constitutional Courts; the offices of the federal republican Supreme Courts; and the Presidium of the Czechoslovak Academy of Sciences; ... top positions in Czechoslovak, Czech and Slovak Radio and Television; ... the Czechoslovak Press Agency; ... top management positions in enterprises and banks owned by the state; to top academic positions at colleges and universities, and to judges and prosecutors.¹³⁶

This system requires every person to be vetted prior to fulfilling positions in which the new law requires review for. If the individual is found to have any connection, they are barred from holding the public positions previously mentioned. Of those that applied, only about 5% of the requests returned were "positive" for collaboration.¹³⁷ There were very few people who actually lost their jobs. In many cases these individuals were just assigned to a lower position of authority that did not require a negative

¹³⁴ Los, 130.

¹³⁵ Elster, 190.

¹³⁶ Ellis, 182.

¹³⁷ Mayer-Reickh, 315.

response. Although originally the law applied to anyone filling the positions of authority was screened, the law was amended in 2000 to include only individuals that were born after December 1, 1971.¹³⁸

Although the Czech system has been cited by many in the transitional justice field as the model in the east, there were many people who doubted the lustration system. In the beginning of the transition, there were many former communists that had infiltrated the new government under the guise of dissidents. These former StB agents and communist party members used each other to obtain false certificates and present an “alternative file” for screening.¹³⁹ Over 90%¹⁴⁰ of the files were destroyed and it was difficult for courts to prove that an individual was not a collaborator even after that individual received their positive certificate. It did encourage those that were guilty to leave civil service, but many of them gained employment in private companies where their salaries were much higher.¹⁴¹ Polls conducted in the first few years of lustration concluded that over 56% of those surveyed still supported the removal of the former communist from the government.¹⁴²

Five years after the initial lustration law was passed, new legislation in 1996 opened the files for the victims. In 2002 this legislation was adjusted to give members of the public visibility of the files. It also incorporated institutions such as the Ministry of Defense who created a “Document Disclosure Authority” which allowed these victims to apply and view the files that military intelligence may have kept on them.¹⁴³

One of the problems with the files is that up until 2006 the files were kept under the control of the Ministry of Justice, the Ministry of Defense, and the Ministry of Interior.¹⁴⁴ Many files were obviously destroyed or were missing as previously

¹³⁸ Mayer-Reickh, 315.

¹³⁹ Hulpachova.

¹⁴⁰ Letki, 542.

¹⁴¹ Elster, 201.

¹⁴² Letki, 536.

¹⁴³ Ministry of Defense Czech Republic, Interview by author, April 18, 2008, Prague, Czech Republic.

¹⁴⁴ Ministry of Defense Czech Republic.

mentioned. Of the files that remain, the contents of a few were deemed as matter of National Security, and they have not been released by departments with in the ministries list above and are not vetted.¹⁴⁵ The new Czech state security that is employed under the Ministry of the Interior, who may or may not still have former StB agents, decides which files to release for vetting and research and which to withhold. In fact, two years ago, when the military intelligence was combined, multiple bags of files were discovered in an old basement of the military counter intelligence facility with a sign on them to please shred.¹⁴⁶ According to an interview conducted by this author with the Ministry of Interior, once a person has been vetted through the StB files and is cleared, they would not be reviewed again.¹⁴⁷

In February of this year a new government institution was established. The Institute of Totalitarian Regimes has finally compiled all existing secret police files, except those in the interest of national security. They are under the process of filing them into an electronic database to allow for research to be conducted and lustration certificated to be issued more accurately and faster. All members of this institution have been vetted and cleared for ties with the StB, if they are old enough, prior to employment. With all the files in one place this institution will help prevent the issuing of false certificates, as in a few cases of the past, and more importantly allow historians and journalist to present an accurate account of the past.

Upon the separation of the Czech and Slovak Republics in 1993, Slovakia discontinued their lustration procedures.

C. COLLAPSE OF EAST GERMANY AND UNIFICATION

As mentioned earlier, East Germany retained its hard-line approach to reforms in the late 1980s ignoring Gorbachev's policy of glasnost. In 1989, as the communist regimes throughout East Central Europe were breaking down, Erich Honecker, General

¹⁴⁵ Petra Kropackova, Personnel Security and Lustration Section, Ministry of the Interior Czech Republic, Interview by author, April 17, 2008, Prague, Czech Republic.

¹⁴⁶ Hulapchova.

¹⁴⁷ Kropackova.

Secretary of the Central Committee of the Communist Party, continued to rule with an iron fist. In the summer of that same year Poland held their first free elections and opened the eyes of the rest of the Warsaw Pact nations. East Germans were trying anything to find their way out of the republic. They were camped out at the West German Embassies in Prague, Warsaw and Budapest trying to escape to the West. The trains carrying these individuals to the Federal Republic of Germany (FDR) were assaulted by thousands of people in Dresden also trying to get out.¹⁴⁸ In addition, an estimated fifteen to twenty thousand East German citizens crossed the border into Austria from Hungary that summer.¹⁴⁹

Demonstrations emerged and as the summer continued on they also continued to grow in size. The revolution in East Germany was underway. By the end of the summer hundreds of thousands were protesting weekly. One demonstrator commented, “There were tears in my eyes. I did not feel alone; we learned to stand upright....The spell-fear of the Stasi-was broken.”¹⁵⁰ Demonstrations on October 7, the fortieth anniversary of the GDR, led to a violent crackdown by police, but this did not stop the people. Less than a month later over 500,000 demonstrators protested in Berlin. Five days later, on November 9, 1989, the wall fell.¹⁵¹

The destruction of the Berlin Wall in November of 1989 reunited families and old friends. Officially, enemies became allies. It began the reunification process of East and West Germany foreseen by Article 23 of the Basic Law. As hundreds of thousands of people rejoiced, the conflict that had German level weapons at fellow Germans began its passage into memory. Once more, as in the years 1846-1871, the Germanys were resolved in unity, but this time there was no bloodshed and no rupture in the balance of power in Europe. These Germans spoke the same language, ate relatively the same food, and culturally maintained the same traditions; it had only been forty-five years since they

¹⁴⁸ Peter E. Quint, *The Imperfect Union. Constitutional Structures of German Unification*. Princeton: Princeton University Press, 1997, 16.

¹⁴⁹ Rothschild, 194.

¹⁵⁰ Quint, 16.

¹⁵¹ Ibid., 17.

were one nation. But these people had grown apart since the wall was established. They grew up under vastly different social conditions and structures, not the least in the aspect that West Germany had truly rid itself of the fear of the secret police.¹⁵² Many in the East lived their lives in fear or always questioning those around them while those in the West experienced freedom of expression and movement. A majority of these populations had only known each other as an enemy or as a matter of total indifference. There was a completely different mindset in the East than in the West.

East Germany had filled the minds of their citizens with propaganda for years through mass media and education concerning the evils of the West, while at the same time East Germans had also watched West German television. After the construction of the wall in 1961, “East German party theoreticians warned of a West German revanchist onslaught under the NATO compass and Nazi war flag. Once the atomic fires had subsided, the West German imperialists would emerge from their Bundeswehr armored personnel carriers to enslave the workers and peasants of the other Germany and once more erect the charnel houses of the Nazi *Volksgemeinschaft*.”¹⁵³ Forty-five years of such propaganda filled the minds of the people and especially the soldiers of the east. Neither East nor West trusted each other. This put the peoples of East Germany at a disadvantage as they not only had to deal with the ghosts of their communist past, but completely alter their way of thinking if they chose to continue employment in the new unified state and the Bundeswehr.

Less than a year after the wall was demolished, Germany was unified. On 3 October, 1990, the “unification” law took affect. In the past year the GDR had taken considerable steps towards reforming the nation. The Stasi was disbanded formally, the first free elections ever in the GDR were conducted within months, and a coalition government of opposition forces and the former regime was formed.¹⁵⁴ They even implemented lustration procedures in the judiciary and the government screening

¹⁵² Quint, 3.

¹⁵³ Donald Abenheim, *Soldier and Politics Transformed: German-American Reflections on Civil-Military Relations in a New Strategic Environment*, Berlin: Carola Hartmann Miles, 2007, 17.

¹⁵⁴ Quint, 18-20.

deputies and ministers for past involvement with the Stasi.¹⁵⁵ These reforms were meaningless as the FRG absorbed all state functions and institutions.

Upon the assumption of the GDR into the FRG, all state security and law enforcement was disbanded or restructured under western control. Members of West German organization replaced a majority of the senior staff. Judges and prosecutors were relieved from their duties until their West German supervisors vetted them.¹⁵⁶ The NVA as an institution vanished on 2 October 1990, but its soldiers became members of the Bundeswehr, and there followed a stage reduction of force among mostly officers and some NCOs in the next four or five years.¹⁵⁷ East German soldiers were allowed to remain and join the Bundeswehr, but were not allowed to command in the “senior echelons.”¹⁵⁸ All of the NCOs and Officers that requested permanent status in the Bundeswehr were vetted for previous ties to the Ministry for State Security (MfS). This process resulted in the discovery of many informants among the ranks, a case made more extreme when the soldier under scrutiny had omitted to mention their prior collaboration with the Stasi. As the MfS archives were reviewed it was found that one in every five was deemed an “unofficial agent” of the MfS.¹⁵⁹ The border patrol of East Germany, employing a high percentage of the MfS, was completely dismantled and assumed by the West German *Bundesgrenzschutz*.¹⁶⁰ Under the management of a handful of Bundeswehr officers, the former border guards took down the wall in a lightning action that left almost no trace of what been for forty years the most important piece of architecture in modern German history.

¹⁵⁵ Calhoun, 63-64.

¹⁵⁶ Berman, 68.

¹⁵⁷ Abenheim, 28.

¹⁵⁸ Ibid, 21-22.

¹⁵⁹ Ibid, 37-38.

¹⁶⁰ Berman, 68.

D. VERGANGENHEITSBEWALTIGUNG

For the second time in less than fifty years, Germans found themselves being “cleansed” again for serving the ruling regime and obeying their laws. Although originally deemed as unnecessary by Chancellor Helmut Kohl, not the least bit the factor of the former East German opposition in the government, Transitional Justice in Germany was implemented very shortly after unification. The unified Germany adopted the three methods of transitional justice or *Vergangenheitsbewältigung*, coming to grips with the past.¹⁶¹ One of the methods utilized was *Enquetekommission* or Truth Commissions. Germany was the only former communist nation to implement Truth Commissions as a measure of transitional justice. Once Germany was reunified there were millions of citizens from the western half who were completely unaware of the severity of the crimes committed by the SED and the Stasi. The Truth Commissions, not focused on the individual’s responsibility in the former regime, but rather the crimes that were committed in general, provided an understanding and an accurate picture of the policies and procedures used by the GDR over the last forty-five years to maintain control of its population.¹⁶² Both civil and governmental institutions were examined to include the church, prisons, justice system, and the Stasi in order to provide a better understanding of “what a cog in the machine each person was.” As a result of the hearings conducted, two detailed reports were released but the population paid little attention to them.¹⁶³

The second form of transitional justice Germany employed was Trials. While on trial for murder, Erich Honecker claimed that, “What is achieved in this trial is exactly what we [the Communists] were always accused of doing, ridding oneself of political foes by the means of criminal law, but, of course, all within the rule of law.”¹⁶⁴

¹⁶¹ Koehler, 10.

¹⁶² This differed from the tribunals conducted in South Africa that were focused on the “criminal activities of the individuals.” as the German government refused to grant amnesty as in South Africa. Rigby, 113.

¹⁶³ Rigby, 114.

¹⁶⁴ Christiane Wilke, “Politics of Transitional Justice: German, Hungarian, and Czech Decisions on ex post facto Punishment.” *The Contours of Legitimacy in Central Europe: New Approaches in Graduate Studies*, 1.

Controversy surrounded the trials as people debated the question of under which laws should the criminals be tried, East German or West German? It would be impossible to apply West German law as those accused were not subject to it at the time. According to the unification treaty all individual crimes committed in the GDR prior to unification, would be punished under GDR law.¹⁶⁵ This controversy came into light in 1992 when the East German border guards who were responsible for shooting defectors went to trial. German courts ruled that the “shoot to kill” orders violated the Helsinki Accords and UN covenants on human rights according to the “right to life and the right to freedom of movement.” Many of the accused claimed they were only following orders as illegally crossing the border was a criminal act to which they were required to prevent. A majority of the border guards were individually selected according to the fact that they would most likely not question any orders they were given. But the courts claimed that the soldiers should have known better than to shoot unarmed civilians.¹⁶⁶ In the 2,668¹⁶⁷ investigations concerning the attempted murder and actual murder of defectors, the majority of the soldiers found guilty received suspended sentences, but those in the positions of authority served jail time.¹⁶⁸

The last Secretary of the GDR, Egon Krenz, tried to use the same law abiding excuse when he was tried in 1997, proclaiming he was innocent. Ultimately, he was found guilty and sentenced to six and a half years of prison.¹⁶⁹ Charges were also brought up on Honecker for the death of the defectors, but the case was dismissed due to his poor health. Additional members of the Defense Committee and the Politburo were also tried on the same accounts and found guilty.¹⁷⁰ Erich Mielke was found guilty on two counts of murder prior to 1945 and sentenced to six years in prison, of which he served a little over three years. He was not found guilty for any crimes committed while

¹⁶⁵ Berman, 67.

¹⁶⁶ Wilke, 3.

¹⁶⁷ Calhoun, 79.

¹⁶⁸ Wilke, 4.

¹⁶⁹ Rigby, 113.

¹⁷⁰ Koehler, 11.

he was head of the Stasi for over 30 years.¹⁷¹ Thousands of investigations were launched by the Germany government concerning GDRs involvement in “murder, attempted murder, manslaughter, kidnapping, election fraud, and perversion of justice.” Of the 52,050 investigations launched in the former GDR, over half were dropped due to insufficient evidence and aging suspects. Only 132 individuals of the 52,050 were convicted.¹⁷²

These investigations and trials addressed the crimes already mentioned above but did not address the thousands of individuals that were persecuted as political enemies of the state. These East German political prisoners were only exercising the right that their western half practiced daily – freedom of expression. They spent years in prison, were separated from loved ones, lost their jobs and prestige, and lived out the rest of their lives in fear. Even crimes such as spreading propaganda earned an individual a year or two in prison. One young man was sent to prison for hanging a sign in the window of his apartment that read, “When justice is turned into injustice, resistance becomes an obligation!” He was rewarded with a trip to prison for almost two years. Another young East German was committed to eighteen months of hard labor after a friend reported him to officials for stating that tanks did not belong at the borders.¹⁷³ Many of the Stasi agents were never tried for imprisoning, torturing, or influencing the employment of these political prisoners. For those individuals that suffered at the hand of the Stasi and those that collaborated with them, Lustration, there was an attempt at providing justice.

“East Germans may have had full employment and bread, but what is this to persons stripped of their dignity because they could not read, travel, or go to church for fear of losing privileges or risking imprisonment? What then is wrong with barring persons who profited from this system from holding positions of public responsibility and trust in a democratic *Rechtsstaat*?”¹⁷⁴

¹⁷¹ Berman, 69.

¹⁷² Koehler, 13.

¹⁷³ Ibid, 18-19.

¹⁷⁴ Donald P. Kommers, "Transitional Justice in Eastern Germany." Review of *Imperfect Justice: An East-West German Diary*, by Inga Markovits. *Law & Social Inquiry* 22, no. 3 (Summer 1997): 829-848, 847.

The last form of transitional justice discussed in Germany was Lustration. In accordance with the Unification Treaty, Stasi agents, their collaborators, and members of the SED were considered “unsuitable people to continue occupying positions of trust and public responsibility in the new order.” These positions of trust were not only within the legislative, executive, or judiciary branches of the government but also included state employees such as “teachers and police officers.”¹⁷⁵ All of these individuals, to include lawyers, church employees, managers of private enterprises, were investigated by their employer without consent for ties with the Stasi.¹⁷⁶ Like the Truth Commissions, Germany was the only East Central Europe nation to conduct vetting outside of top-level government positions.¹⁷⁷ Even janitors and secretaries of public institutions and postal workers could be excluded from employment for fifteen years if their employer thought their past connections with the Secret Police warranted dismissal.¹⁷⁸ In accordance with the unification treaty over 250,000 state employees were laid off until they were properly vetted for ties with the Stasi. Employment of academics of law, economics, and social sciences was immediately annulled with less than five percent returning to their job.¹⁷⁹ Over all, 400,000 people were screened for ties, four percent of the East German population, and only three percent were found guilty.¹⁸⁰

The screening of these individuals was conducted through the use of the files that were kept in the archives of the Stasi. Although many files were burned or shredded in the final days of the Stasi, there were over six million individual files that were placed under the control of Joachim Gauck. His commission was responsible for investigating the files and submitting reports to employers that “contained the code name of the informer, where and for how long she worked, whether she signed a declaration of commitment, why she was recruited, whether she received payments, rewards, or awards for the work, how the work ended, how many reports she wrote, and some information on

¹⁷⁵ Rigby, 114-115.

¹⁷⁶ Calhoun, 76.

¹⁷⁷ Letki, 539.

¹⁷⁸ Appel, 384.

¹⁷⁹ Letki, 539.

¹⁸⁰ Elster, 201.

the contents of the reports.”¹⁸¹ According to the law on Stasi files, if a person was a minor or serving in the military during the period of their collaboration, and as long as they did not report on anyone, their record would return clean to their employer. This law also includes a statute of limitations on collaboration where an individual would also be found to have a negative report if their collaboration preceded 1975. But, their file would be forwarded if they committed a crime or “violation of basic principles of humanity.”¹⁸²

The files were used not only for legal prosecution but to provide a better understanding of what happened through those years and how the “Stasi operated, and the numerous collaborators that it attracted may be important as an educational process in creating a stronger open and democratic personality among citizens. For people emerging from societies that have been built on “forgetting” atrocities of the past, a new beginning could not be appropriately made by perpetuating the fatal habit.”¹⁸³ It was argued that the files were used to “continue the disintegration and exclusion of the eastern intellectual elite, whose democratic but often socialist views were displeasing to the SED hierarchy but also do not seemed to be particularly congenial to the prevailing doctrines of the Federal Republic.”¹⁸⁴

The problem with the lustration process in Germany and the Czech Republic is that it punishes certain members of society as a group. This collective punishment does not take into account an individual’s actions during the regime, only their association with the specified group.¹⁸⁵ It also assumed that those that were top members of the communist party assumed their positions based on their loyalty to the party and was not based on the individuals’ qualifications themselves.¹⁸⁶ When it comes to collaboration the law does allow the employer to make their own assessment as to the individuals’

¹⁸¹ Mayer-Rieckh, 372-374.

¹⁸² Ibid, 374.

¹⁸³ Quint, 244.

¹⁸⁴ Ibid, 243.

¹⁸⁵ Charles S. Maier, *Dissolution. The Crisis of Communism and the End of East Germany*. Princeton: Princeton University Press, 1997, 323.

¹⁸⁶ Letki, 541.

performance and argue their case. In the GDR it was a crime not to inform on your fellow citizen, punishable to five years in prison. One individual served almost two years in jail for not reporting that his friend was planning to defect.¹⁸⁷

¹⁸⁷ Koehler, 19.

IV. POLAND'S ROAD TO TRANSITIONAL JUSTICE

The question remains; How does a nation deal with its broken past and the legacy of barbarism in the midst of Twentieth Century civilization? Some thought an International Tribunal should be formed to prosecute former Communists, such as Lithuanian President Landsbergis. Others believed it was an issue for the individual state. Simon Wiesenthal, famous Nazi hunter author of *The Sunflower*, commented, "It is important that each of the former communist countries come to grips with its own history; and therefore they must put their own house in order, and not with some kind of international tribunal."¹⁸⁸ This is contradictory to the Nuremberg Trials. Every state followed a separate path since falling under the authority of Moscow, although they were oppressed under many of the same conditions. Therefore, each state should develop its own system of justice. In Poland this system was the legislation of lustration. But it was not legalized until 1997.

By the mid 1980s, in the face of the Solidarity movement, the Communist government emplaced many reforms in Poland. Society was moving towards a more democratic and limited free nation. The government had become quite liberal; the people were given the right to protest.¹⁸⁹ "The Polish leaders from the communist era gained legitimacy as center-left politicians quite early, as long as they embraced democratic and capitalist change."¹⁹⁰ These reforms established Poland as the vanguard in the collapse of communist East Central Europe in 1989-1991. As regimes began to topple, following Poland's spring elections in 1989, business in Poland continued as usual, progressing towards a free society. There was no immediate discourse to round up the old regime and begin persecutions. In fact, the "Round Table" agreements of 1989 were completely against such measures.

¹⁸⁸ Koehler, 26.

¹⁸⁹ Szczerbiak, 554.

¹⁹⁰ Appel, 403.

A. ROUND TABLE TALKS

Poland's turnover of power was a negotiated one. According to the agreements made during the Round Table talks, members of the Communist regime were allowed to remain within the government, while Solidarity took the lead of running the nation. These agreements allowed both the Communist party and the Solidarity movement to form a more "freely elected Senate." In the parliamentary elections of 1989, Solidarity took almost all of the available Senate seats; the Communist Party was able to keep one in the Senate (today they hold close to 13%). The Round Table allowed for a slow withdrawal of the communist party's involvement in the new Polish government. The communists remained in control of the defense and internal affairs ministries until 1990 with Jaruzelski as President until December of 1990.¹⁹¹ Another agreement of the Round Table which led to the delay of lustration in Poland stated that the previous regime's government would not be held accountable for crimes against the Polish nation. "This confirmed the argument that lustration was likely to be less severe in liberal communist systems which had negotiated their exit away from authoritarianism peacefully."¹⁹²

In 1989 Poland's incumbent Prime Minister, Tadeusz Mazowiecki did not assist his country's search for historical justice. He claimed that he was going to draw a "Thick Line," and forgive the communist past to allow for "reconciliation and transformation."¹⁹³ Mazowiecki's policy did not allow purging or lustration. Apparently this deal was made with the communists to allow the negotiations of the "Round Table" to continue.¹⁹⁴ Mazowiecki claimed that he "simply intended to symbolically divide the old and new Poland and to separate his government's responsibility from that of the previous regime."

The "Round Table" agreements began the delay of the Lustration process in Poland. Mazowiecki believed his idea provided movement in the right direction for

¹⁹¹ Szczerbiak, 555-556.

¹⁹² George Sanford, *Democratic Government in Poland: Constitutional Politics since 1989*, NY: Palgrave MacMillan, 2002, 220.

¹⁹³ Szczerbiak, 556.

¹⁹⁴ Rosenberg, 235.

Poland to maintain a stabilized economy and government during this time of transition. Lustration and purges would only lead to political unrest and further decline of the already struggling economy.¹⁹⁵ In contrast to Czechoslovakia, “Historical Justice” would just have to wait for the day when Poland achieves both economic and political security. The idea of Poland delaying lustration to allow for the development of the nation seemed to accommodate the previous regime. There were active members of the government who did have a clean slate. Senator Zbigniew Romaszewski, the current Vice President of the Senate, started his career in politics in 1976. Minus a two year stint in jail as a political prisoner in the 1980s, he remained active in the Solidarity movement and politics until he was elected to the Senate in 1989. He has remained a strong activist for human rights and lustration. To date he is the only Senator to be elected seven consecutive times.¹⁹⁶ Senator Romaszewski did not stand alone when it came to a clean past. There were others who could have stepped up to meet the needs of the state. Lustration legislation in 1989 was viable, but the transition was negotiated by the former communist regime and those members of Solidarity that the communist chose to take part in the Round Table agreements.¹⁹⁷

B. WILD LUSTRATION

Unofficially, lustration began rather quickly and made its appearance as soon as Mazowiecki left office in 1991.¹⁹⁸ The new Prime Minister, Jan Olszewski, promised, while campaigning for elections, that the policy of the “Thick Line” would be abolished and major anti-communism reforms would take place once he was elected. The Sejm, the Polish parliament, passed new legislation in May of 1992, “requiring information about current senior public officials occupying the rank of provincial governor upwards who had co-operated with communist-era security services to be made public.”¹⁹⁹ Thanks to Poland’s new Interior Minister, Antoni Macierewicz, the secret police files of

¹⁹⁵ Rosenberg, 250.

¹⁹⁶ Piekarski.

¹⁹⁷ Ibid.

¹⁹⁸ Rosenberg, 250.

¹⁹⁹ Szczurbiak, 557.

sixty four Sejm deputies, listed as collaborators, were released to the Sejm.²⁰⁰ Soon after, Macierewicz produced an additional list with thirty-seven names of collaborators, which included the current President of Poland, Lech Walesa. It is not surprising that the majority of the names on the new list were members of the opposition party, many of whom were key individuals in the fight for freedom the decade prior. Former dissidents, like Walesa, parliamentary and public officials, and opposition activists were included on this list.²⁰¹ But the list was just that, a list. It provided no information on the individuals and was used by Olszewski's government for political gains.

The Sejm looked into the claims of collaboration and discovered that a majority of them were false. When confronted with this, Macierewicz claimed: "it wasn't his job to check the evidence."²⁰² Upon further research, it was found that the names recorded were only names in the archives and no evidence existed as to whether they had collaborated or not.²⁰³ These unreliable claims embedded doubt in the minds of the government of the legitimacy of the files, the peoples who reported it, and the lustration process itself. The list was released on June 4, 1992. The Olszewski government was "ousted" the next day, on of June 5.²⁰⁴ Macierewicz's mess led to the defeat of the Olszewski government²⁰⁵ and contributed to the Communist party winning parliamentary elections in 1993. "They themselves had brought down the last Solidarity coalition government and handed the 1993 communist election to the former communist by refusing to work together."²⁰⁶

Now that the Communists were openly operating and participating in the parliament, the "Thick Line" didn't seem like a bad idea; "it perfectly illustrated why it

²⁰⁰ Rosenberg, 250.

²⁰¹ Szczerbiak, 557.

²⁰² Rosenberg, 250-251.

²⁰³ Szczerbiak, 558.

²⁰⁴ Ibid.

²⁰⁵ Sanford, 221.

²⁰⁶ Elizabeth Pond, *The Rebirth of Europe*, Washington, D.C.: Brookings Institutional Press, 2002, 113-114.

was the correct policy.”²⁰⁷ Lustration seemed to fade away from politics and public life, partly due to the communist involvement in politics, and became close to a dead issue. Unfortunately, it was brought back to manipulate political objectives. In November of 1995, President Walesa, a previous victim of false lustration claims, announced that the newly elected Prime Minister Jozef Olesky, was a “long-time informant of a ‘foreign intelligence service’.”²⁰⁸ As the defeated president spent his final days in office, the Ministry of the Interior and the Sejm investigated these allegations. Olesky was found guilty of working with the KGB and the opposition demanded his resignation.²⁰⁹ “Lustration as a tool for “political infighting”²¹⁰ was rising again.

C. LUSTRATION ACT 1997

Under the new administration of President Aleksander Kwasniewski in 1996, lustration was considered the “most important problem which needs to be solved.”²¹¹ Public polls conducted in February of 1996 reiterated this idea with 67% of those polled agreeing that lustration was necessary.²¹² After almost ten years of delay and “wild lustration,” the formal lustration law was passed in 1997. Justification for this law was comprised of three key ideas: “a desire for openness in public life and the notion that citizens had a right to know the backgrounds of their public representatives.”²¹³ It wasn’t against the law to have collaborated with the secret police. It was just the public’s right to know this information. Secondly, it was in the interest of national security that any past relations with the secret police be released to the public. This would prevent the possibility of a government officials becoming vulnerable to coercion or blackmail. Currently this information is still not available, allowing for political blackmail to occur.

²⁰⁷ Rosenberg, 250.

²⁰⁸ Hubert Tworzecki, *Parties and Politics in Post-1989 Poland*, Boulder, Colorado: Westview Press, 1996, 68.

²⁰⁹ Calhoun, 124.

²¹⁰ Sanford, 221.

²¹¹ Calhoun, 125.

²¹² Ibid, 126.

²¹³ Szczepiak, 563.

And finally, the law protected each individual against “wild lustration,” de-politicizing the records and subjecting them and the individual to judicial process.²¹⁴ The judicial process was not impartial, as many judges who were previously employed by the communists still presided in the courts.

The Lustration Act required all candidates running for public office to submit a letter stating whether or not they had collaborated with the secret police. No penalties were directed at the individual, nor were they disqualified from their job if they admitted to collaboration. If the individual lied about their involvement and his or her declaration was later discovered to be false, he or she could be precluded from public office for ten years.²¹⁵ The Lustration Act also did not preclude former communist party members from participating in public office.²¹⁶

With the laws now in place, the public seemed to lose interest. Polls were taken of the general populace in 1994 that showed almost three quarters of the population was in favor of elected officials being removed from office if they were found to have collaborated with secret service. In 1999, that percentage dropped to a little over half of the populace.²¹⁷ In 2001, “Robert Soltyk, deputy foreign editor with the Gazeta Wyborcza newspaper stated: ‘I don't think it's a great idea. When you look to the past through the window of the ex-special police, you don't really look into the past, you look into the past as produced by them. They were not honest people. They were inventing people and trying to use the files for their own purposes.’”²¹⁸ This is a common perception by many citizens of Eastern Europe and the rest of the Western World. But the independent organizations now responsible for these files say the “invention of people” was a rarity.

As part of the 1997 law, the Institute for National Remembrance (Instytucie Pamieci Narodowej – IPN), the commission for the prosecution of crimes against the

²¹⁴ Szczerbiak, 563-564.

²¹⁵ Appel, 388.

²¹⁶ Szczerbiak, 567.

²¹⁷ Sanford, 223.

²¹⁸ “Poles queue for Secret Police files,” CNN, February 15, 2001.

Polish Nation, was established in 1998. Not in operation until July of 2000, the institute's main mission was to "preserve the memory of" the citizens' fight for an independent Polish Nation against its Nazi and Communist oppressors and to "prosecute crimes against peace, humanity, and specific war crimes."²¹⁹ This independent organization, separate from the government, was designed to maintain neutrality and prevent governmental influence. The IPN is responsible for maintaining the secret police files and researching the files for the lustration "vetting" process. In an interview conducted on 15 April 2008, the validity of the files was discussed by the author with Dr Krzysztof Persak and Dr Wladslaw Bulhak (IPN research historians). The fact that many of the files, including the ones on the Solidarity movement, have been destroyed or are missing was not debated. There were also files deemed "classified" by many of the heads of agencies, such as the Ministry of Defense, and were not released to the IPN as directed. The Security Services retained all of their files until 1999 and still maintains a collection of files.²²⁰

Dr Persak and Dr Bulhak, from the IPN claim, that it is very rare to find false files within the system. The old communist system was very redundant with card files, officer reports, registration books, recruiting documents, and personal declarations. Even if individual files were destroyed or missing, this system provided for the additional documents mentioned above to determine one's guilt. Moreover, if the file of a collaborator was missing, there would still be a record of their collaboration in the files of the people on whom they were reporting. Receipts of gifts to informers were also kept in the files. The SB was very meticulous in their documentation of victims and collaborators. Almost every collaborator was recruited for a specific purpose and they were reviewed and accepted by the recruiting agent's supervisor. The supervisor was also responsible for ensuring that the new collaborator actually existed.²²¹ It was a very bureaucratic system. These notions are also supported by the director of a similar institution in the Czech Republic. It is possible for an individual's name to be entered into the system as a collaborator without ever having provided any information. Usually this was noted in the file and registration books. It is

²¹⁹ "Origin of the Institute of National Remembrance."

²²⁰ Dr Krzysztof Persak and Dr Wladslaw Bulhak, Public Education Office, Institute of National Remembrance Poland, Interview by author, April 15, 2008, Warsaw, Poland.

²²¹ Persak and Bulhak Interview.

possible that an agent who was eager to please their boss registered names. But this situation, according to the IPN, was very rare and most unlikely.

RESURFACING OF POLITICAL INFIGHTING

In 2005 the Law and Justice Party (PiS), lead by Jaroslaw Kaczynski, won the majority in parliament. Jaroslaw's twin brother Lech Kaczynski was elected to president at the same time. This campaign focused on the "cleansing of Poland's past." It is rumored that their harsh position on lustration was used as a tool to punish the members of the Solidarity Party who may have slighted the twin brothers during the 1990s.²²² "Driven by resentment against an entire generation of older politicians, the Kaczynski are happy to see them purged from offices and replaced by their own loyalists."²²³ The Lustration Act of 1997 expired on 15 March 2007. The previous law, thought to be too narrow by the President and the new Prime Minister, Jaroslaw Kaczynski, only accounted for 27,000 members of the Polish population.²²⁴ A new law developed by the Kaczynski's Law and Justice Party expanded the range and number of individuals that would be subject to the vetting process. This new law would apply not only to public officials as in the past, but to anyone in a public position of authority including academics, journalist, and company executives, much like in Germany.

Every individual holding a position listed under the law who was born after September of 1971 would be required to submit an affidavit as to their involvement with the secret police.²²⁵ Those who were born in September of 1971 were eighteen at the time of the collapse of the Communist Regime. In the final years of the previous regime how much damage could a teenager inflict upon society? There were many youth organizations throughout the country. Although many of them were not related to dissident movements, the network of informers most likely penetrated all of them. The new law is estimated to effect up to 700,000 individuals and it could take up to 15 years

²²² "Communist-Era Scars Haunt Poland's Politics," *NPR*, October 21, 2007.

²²³ *New York Times*, January 22, 1997, cited in "Poland: Tough Lustration Law Divides Society," Radio Free Europe, March 23, 2007.

²²⁴ "Polish intelligentsia face post-communist vetting," *Washington Post*, March 13, 2007.

²²⁵ *Ibid.*

for all the affidavits to be processed and cleared if all the affidavits were reviewed.²²⁶ Is this “Historical reckoning” or a “witch hunt masquerading as a quest for the truth”?²²⁷

Lustration is still used as a political tool by members of the current ruling government, but to a lesser extent. In the past two to three years, many members of the secret service and military intelligence were vetted and a complete reworking of these institutions was executed. Often the new government believed that members of the secret service and military intelligence still worked for the former party. This was also the case with heads of the ministries and state institutions. With the election of a new government, new individuals were appointed to lead these institutions. Lustration in Poland is viewed by much of the public as just another government issue. Public polls taken in 2006 noted that 70% of the population believed lustration was used as a tool by the ruling political party rather than a tool to provide justice to the people. This was echoed by the opposition party with a result of 84% in agreement with the public’s perception and surprisingly over 50% of the ruling party also agreed.²²⁸

PROTECTORSHIP OF THE PEOPLE - THE CATHOLIC CHURCH

Lustration’s popularity was dying out after the election of Lech Kaczynski. It was brought back into the public’s eye in January of 2007 with the scandal in the Polish Catholic Church concerning Bishop Stanislaw Wiegus’ status as a collaborator with the secret police. Although neither the current or past lustration law applies to members of the clergy, this case touched many of the citizens in Poland and revised interest in the need for a continuation of the law.

During the period of the old regime, the Catholic Church was a symbol of freedom and a separate organization for the rights of its citizens. During communist rule the church seemed to be the only moral authority the people could turn to in trust when

²²⁶ Jasiewicz, 31.

²²⁷ CNN, February 15, 2001.

²²⁸ “70% uważa, że lustracja służy rozgrywkom politycznym,” *IPN publikuje katalofi osob publicznych*, October 9, 2006.

they thought there was no other hope.²²⁹ The Catholic Church was the voice of the people when the people could not have a voice of their own. Unfortunately the Church, like many other organizations in Poland striving for a free society, was also infiltrated with secret police and their collaborators. The Catholic Church was the sworn enemy of the state. The Communist Party and the SB carefully filled the church with its spies over the years. Many priests were arrested due to compromising material, then interrogated and intimidated into cooperation. In 1949 the “patriot priest” movement was established with the aim at destroying the Church from within.²³⁰ As an example, the SB infiltrated pilgrimages in 1978 from Warsaw to Jasna Gora. During these pilgrimages, agents planted controversial material concerning the church and pornographic material on the participants and served them hallucinogenic drugs.²³¹ These actions of course led to arrests and intimidation of the participants in the future.

In 1995 Father Konrad Stanislaw Hejmo was accused of collaborating with the secret police. The former aide to Pope John Paul II denied all claims against him. Research was conducted through the IPN and the claims were presented to Father Maciej Zieba, the priest’s Dominican superior who claimed “the files were convincing and shocking.”²³² A warning was given by Bishop Tadeusz Pieronek, “We are still not sure of the type of the co-operation, whether he was simply talking about the Holy Father with the secret services or was actually providing secret information on him.”²³³

Last year Bishop Stanislaw Wielgus, soon to be the next Archbishop of Warsaw, was accused of collaborating with the SB in Poland. He admitted to working with the secret police,²³⁴ but denied that he ever informed on anyone, only using the connection to obtain foreign travel. Public opinion and polls showed that the population wanted him

²²⁹ Pond, 118.

²³⁰ Persak, 267.

²³¹ Ibid, 268.

²³² “Late Pope’s aide ‘a secret agent,’” *BBC*, April 27, 2005.

²³³ *BBC*, April 27, 2005

²³⁴ “Allegations of communist collaboration costs second Polish Catholic priest his job,” *CNN*, January 8, 2007.

removed from his position.²³⁵ He resigned his appointment immediately as the Archbishop of Warsaw. Research of the files revealed his connections with the SB ran much deeper than he admitted.

D. 2007 — AN AWAKENING

With the shocking scandal in the Catholic Church blasted across the front pages of the news, lustration became an issue once again in the lives of the citizen. This time support for legislation swung in the opposite direction. As legislation came under review from the Constitutional Court, much controversy arose concerning the number and occupations of individuals who would now fall under the new lustration legislation. The bulk of this controversy was centered on the application of lustration to private enterprises and institutions. Many of the privately owned academic institutions and news agencies who fell under the umbrella of this new law felt the government should have no say in who they employ. Numerous individuals, organizations, and institutions called for a boycott of the new law, including Warsaw University.²³⁶

On May 11, 2007, the Constitutional Court ruled that the proposed Lustration Law was unconstitutional:

While eliminating the communist totalitarian heritage, a democratic state based on the rule of law must use the formal legal means which could be accepted in the framework of axiology of such a state. No other means can be accepted because such a state would not be better than a typical totalitarian regime, which must be eliminated. A democratic state ruled by law has sufficient legal instruments necessary to guarantee justice and to punish the people who committed crimes. A law which is based on the idea of revenge cannot be accepted in a democratic state.²³⁷

The Constitutional Court claimed that it was unconstitutional for a journalist to be vetted under the current lustration law and pointed out that the law failed to clearly identify “who” a journalist was. It also cleared scholars and employees of private

²³⁵ “Profile: Stanislaw Wielgus,” BBC, January 7, 2007.

²³⁶ Radio Free Europe, March 23, 2007.

²³⁷ Safjan, 17.

enterprises. What it did not prevent was the vetting of directors and appointed officials of media agencies and public institutions. According to the new law, all individuals holding positions slated for vetting were required to fill out new lustration forms stating their previous involvement with the secret police by December of 2007. No new cases have been presented in court for the 100–200,000 individuals that may have submitted an affidavit.²³⁸

The new law of 2007 still fails to provide substance. The fact still remains that many of the employees of the state have admitted to collaboration and still remain in their positions. It is only when they lie and are discovered that this becomes an issue. In a 2007 poll conducted by Centrum Badania Opinii Społecznej (CBOS), Poland's Public Opinion Research Center (see Figure 1), 62% of the people polled believe that those who collaborated with the secret police should be relieved of their duties in public positions.²³⁹ In the interview conducted with the IPN it was the personal opinion of one of the members that this legislation was not a good tool for coming to terms with the past. It provides no information on the crimes committed and “doesn't say anything about the past.”²⁴⁰

²³⁸ Persak and Bulhak.

²³⁹ CBOS, O Lustracji I Sposobie Ujawniania Materialw Zgromadzonych W IPN, June 2007.

²⁴⁰ Persak and Bulhak.

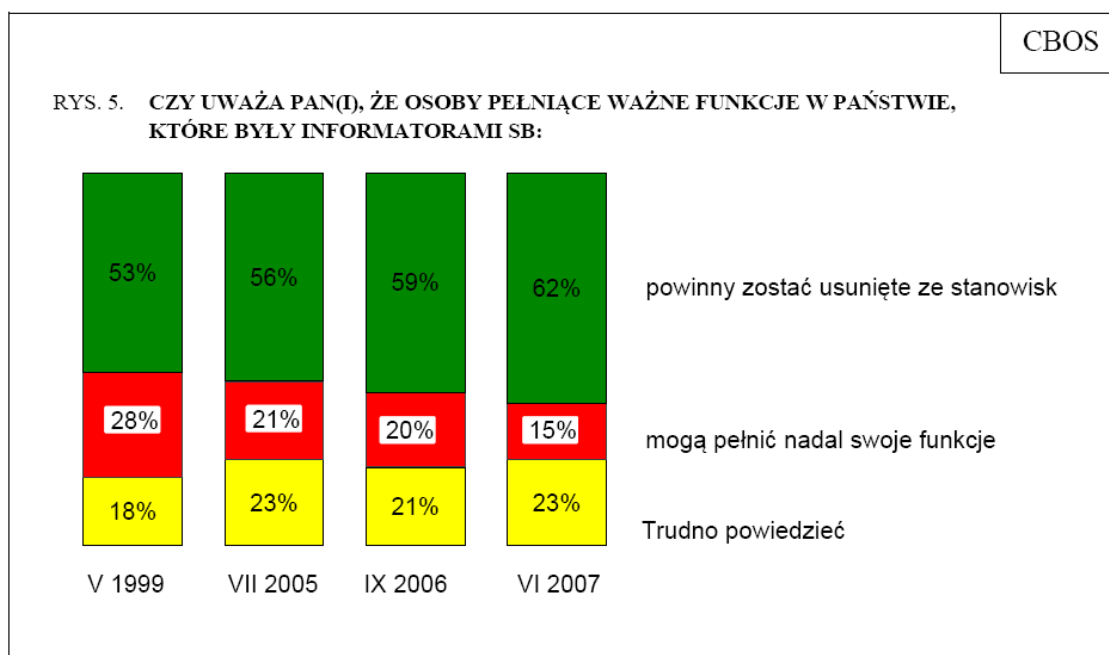


Figure 1. Public opinion polls concerning employment of collaborators in Poland

A positive aspect about the new law is the increased responsibility of the Institute of National Remembrance (IPN). They have been authorized to allow journalists and historians almost unlimited access to all the secret police files they maintain. The information detailed in the archive is beginning to be released to journalists and historians, who will hopefully use the information in the files to develop an accurate history, once concealed in the past, and reveal it to the public.²⁴¹ Pawel Pierkarski, former director of the office of Senator Romaszewski, believes that this information will help the people understand what collaboration entailed and the many circumstances fellow citizens encountered leading them to cooperate with the secret police. When asked if this would finally provide justice for the people, the response was similar to those facing the same dilemma throughout the world. “It depends on the individual citizen.”²⁴²

²⁴¹ Persak and Bulhak.

²⁴² Piekarski.

The IPN has also been given permission to produce a number of lists to be displayed over their internet web page. The lists compiled to date are: (1) Peoples who were oppressed as a result of the secret police. These individuals or family members must approve their name prior to posting. (2) Individuals who held positions within the Communist Party. This list has nothing to do with lustration.

One list that was deemed as “unconstitutional” by the Constitutional Court was the list of secret collaborators and it is not displayed. The IPN is also constructing lists of those subject to the law currently filling public positions, posting their information on the internet. This information is being posted on their website and will contain a copy of their files in the future.²⁴³ In the near future anyone will be able to view the secret police documents on their public officials. These lists may provide the public a peace of mind concerning their government and open the eyes of the younger generation on the many victims of state oppression, but it is just information. There is no analysis. It is only information posted on a web page viewed only by those with internet access and an interest in the subject matter.

Instead of integrity in public life, we saw purges in administration and political nominations on all levels of government. We were to see a decisive battle against the ‘post communist mafia’, but the only mafia that was discovered was the one in the heart of the PiS government. Instead of a crackdown on crime, we saw brutal tactics employed against court judges, the Constitutional Tribunal, and disobedient prosecutors.

— Adam Michnik, director-in-chief of *Gazeta Wyborcza* (Polish Newspaper known for its dissident opinions), on the past two years under the Kaczynski government²⁴⁴

In October of 2007, Poland elected a new Prime Minister of Poland, Donald Tusk. The Civic Platform (PO), now led by PM Tusk, received a fifteen percent lead over the PiS government in the elections. Voter turnout reached as high as 70% in Warsaw.²⁴⁵ Where as the PiS government was elected to power in 2005 because the people were tired

²⁴³ Persak and Bulhak.

²⁴⁴ “What Has the PiS Government Given Us” *Gazeta Wyborcza*, September 9, 2007.

²⁴⁵ “A New Government for Poland” *Time*, October 22, 2007.

of government scandals concerning previous communist ties,²⁴⁶ it is assumed that the people of Poland today were tired of the Kaczynskis and their “aggression in domestic politics and the souring of ties with Moscow and Brussels.”²⁴⁷ The same sentiments were noted in an interview by this author with one Poland’s government employees who claimed that the “people were sick of the Kaczynskis. A year was enough. They did not do enough for the economy and their policies (of lustration) were too wide spread.” In a 2007 poll conducted by CBOS (see Figure 2) almost 70% of those polled believed that lustration was still a tool for politicians, while 19% believed that lustration and the content of the files was the most important topic that the government needed to address.²⁴⁸ Although Donald Tusk ran on a campaign directed against the Kaczynskis’ policies during the past two years, there was one decision/policy that remained the same: the need to maintain the legislation concerning lustration.²⁴⁹

²⁴⁶ *NPR*, October 21, 2007.

²⁴⁷ “New leader in Poland, Donald Tusk, looks to mend fences” *International Herald Tribune*, October 23, 2007.

²⁴⁸ CBOS, June 2007.

²⁴⁹ Persak and Bulhak.

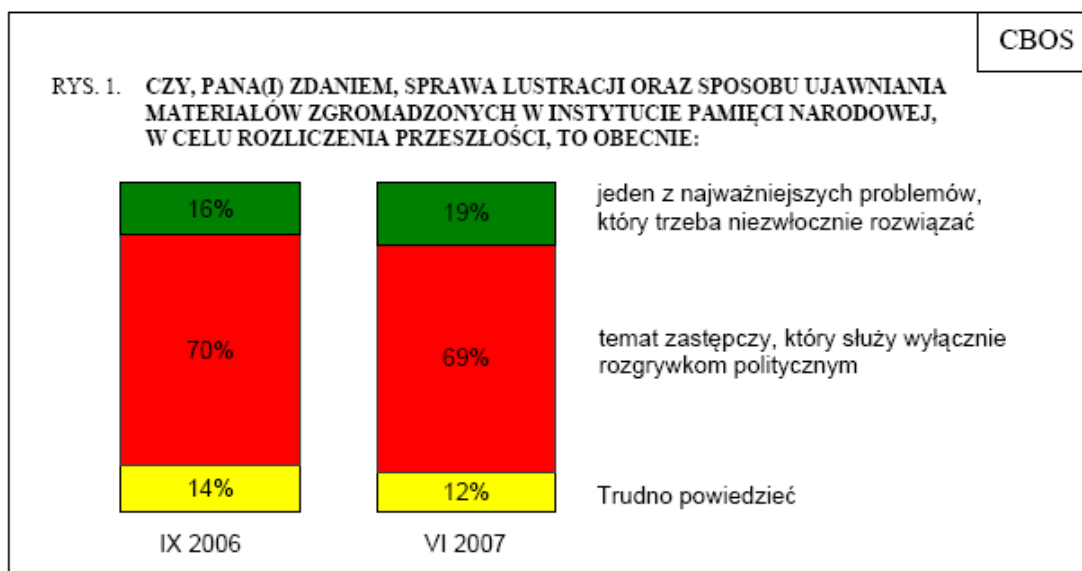


Figure 2. Public Opinion polls concerning lustration in Poland

V. CONCLUSION

A. RECOMMENDATION

The questions addressed to many Polish citizens concerning the model of transitional justice selected by the government at the time of transition are: Was this the right approach for Poland and why did Poland choose not to follow the Czech or German models? For many people these questions were a moot point. Just as in 1989, the Polish believe the past cannot be changed and it is the future that must be addressed. At the IPN there are over two million files on collaborators and agents that span over 86,000 meters.²⁵⁰ There are a few gaps in the data and a few files are still kept at the Ministry of Interior deemed to be a matter of National Security. These files for the most part could have provided the proof, if required, to support cases against individuals. Therefore, the notion of conducting a Truth Commission was not practicable. The East German model of Lustration vetted all public employees and allowed for the complete opening of the secret police files. This led to thousands of employees losing their jobs.²⁵¹ This model was able to work for Germany as only half of the nation public officials were being dismissed. In Poland there was no western half of the state to pick up the pieces of the broken institutions and maintain governance, as in Germany.

If Poland could start over, it would be recommended that a combination of their current lustration law, the Czech lustration law, and the German process of trials and opening of files would prevent the long and drawn out process that they have experienced over the past eighteen years. It has been argued that the economic standing and developing of the nation were not only a higher priority than justice, but a requirement. An argument to this is ideology is that the Czech Republic initiated tough lustration from the beginning without occurring major damage to its economic and governmental institutions. Such lustration, if vetted appropriately could have been applied to Poland immediately. The opening of files would have prevented the “wild lustration” and their use as a political tool.

²⁵⁰ Persak and Bulhak.

²⁵¹ Rigby, 114-115.

Poland's current law allows for individuals that collaborated with the secret service to still remain in positions of authority throughout the government and civil society, as long as they admit to collaboration. The fact of collaboration is available to every voter prior to the election of such officials, but not the extent of such collaboration. Poland is moving forward with posting the content of files on elected and appointed officials on the internet, via the IPN. But this information is currently not posted until that individual has already taken their appropriate seat. If the information in the files is going to be released to the public after the election and appointment, it should be available to voters prior to the election to allow the people to make an informed decision. It is also recommended that all affidavits be reviewed for the extent of collaboration and damage that was inflicted on the Polish Nation, whether or not the claim of collaboration was true.

In the eyes of many victims, justice may never come and they will only find peace upon death. What is left in Poland that represents the terror and hardships they lived with daily in Poland? In Budapest there is the *Terror Haza* (museum of Nazi and Communist atrocities), in Romania the Sighet Memorial, and in Prague there is an eerie Memorial to the Victims of Communism and the Museum of Communism. Even in Washington, D.C. there is a monument and a memorial foundation to the victims of communism. Poland honors the Warsaw Uprising of 1944 with a world class museum. An additional museum has been made of the prison that held the Polish resistance fighters under the Nazi occupation. The old Gestapo headquarters in Warsaw also serves as a museum displaying the tortures that the political prisoners received. There are also monuments and plaques all over the city to remember the destiny that faced Poland's Jewish population during Nazi occupation. The Palace of Culture and Science will remind those that can remember the horrors of the past, but what of the future generations to come? Poland needs to erect a memorial and/or museum dedicated to the victims for not only closure but for historical and educational means. If the victims cannot find peace in justice, maybe they will find it knowing that their story will be heard and remembered.

B. CONCLUSION

In the end, there is no tried-and-true solution to ridding a regime of the vestiges of its totalitarian past. The key is to do something.

— Fredo Arias-King, Founder of Demokratizatsiya: The Journal of Post-Soviet Democratization

Eighteen years have passed since the Round Table. For decades the Poles lived their lives in terror, withdrawing themselves from public life. Those that did not, usually paid for this choice with their lives. Individuals may have had very few friends, as many so-called friends reported information to the Secret Police for a periods for periods of time ranging from weeks to years. This darkness seems to be a generational issue. Many Polish citizens aged in their 30s remember having nothing as a child and adolescent. Still, they want to move forward and not be drawn back into the dark past of their childhood. There are others who were too young to remember the hardships and find themselves unable to relate to this issue. There are even a few protests for the return of the Communist regime. But there still remain those individuals who suffered atrocities and who still want justice. They are ready to move forward, but not until the criminals have made restitution.

The Polish government, for the many reasons already provided, has failed to deliver an adequate solution to its people concerning the years of oppression, terror, and violence they faced under the Communist Regime. Due to almost a decade of denial and “wild lustration” the idea of providing true justice has continued to drag on. Many throughout Poland may not believe that Lustration was the best approach, but it is making progress. The half-hearted attempts by the Polish government have allowed for this issue to remain unsolved. The new law concerning the opening of files and publication of lists is a step in the right direction, but I believe that the citizens have not reached this realization yet. Until those responsible for the crimes against the people of Poland and the nation are held accountable, or they are too old to hold public office, this will continue to be an issue in Polish politics and society.

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